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I. Introduction

The Loudoun County Board of Supervisors adopted the *Revised General Plan* in July 2001 that sets forth long-range land use and development policy. The *Revised General Plan*, which replaced a 10-year old version, states:

The citizens of Loudoun County have strongly expressed their support for Smart Growth and a new direction in development planning with greater emphasis on slowing growth rates and enhancing the quality of life. The *Revised General Plan* has been a community effort. This public process has clarified the direction that the County should take over the next 20 years, and the Revised Plan will be the County's framework for consistent decision-making during the period. If respected and followed, the Plan will help balance the many needs and desires of the community, while protecting the resources that make Loudoun an enjoyable place to live, to work and to visit. This document charts a path that is well reasoned and feasible. It also gives the citizens of Loudoun County an active role in planning and provides strong reason to believe that change can lead to a desirable future. (*Revised General Plan at 1-1*)

Implementation of the *Revised General Plan* is a multi-faceted initiative that involves both program initiatives such as a purchase of development rights program and rural economic development efforts as well as changes to the County's land use codes. Clarion Associates, in association with the Richmond, Virginia law firm of Hirschler Fleischer, Greener Prospects, and Dr. James C. Nicholas (hereinafter "Clarion team") is assisting the County with the land use regulatory aspects of the effort. It is a major undertaking that is divided into two phases. As part of the first phase of work on the project, the Clarion team's responsibilities focus on drafting selected priority zoning district amendments to implement new land use policy, environmental protection regulations, and a "basic" conservation design process. The phase two effort will involve the preparation of development and design standards relevant to *Revised General Plan* policy, and refinement of the conservation design program.¹

The Clarion team, working closely with County staff, has drafted and submitted to the County for public review several new zoning districts to implement the *Revised General Plan*. Additionally, draft regulations have been developed to protect the County's primary conservation resources. These draft regulations include:

Environmental

1. River and Stream Corridor Overlay District (RSCOD)
2. Mountainside Development Overlay District (MDOD)

¹ This will primarily involve the development of more detailed standards for preservation and use of the secondary conservation areas.

3. Limestone Overlay District (LOD)
4. Steep Slope Standards

Suburban Policy Area

5. MU- Business District
6. TREC District

Towns

7. JLMA (Joint Land Management Areas) -1 District
8. JLMA-3 District

In addition, the Clarion team has prepared this report that details an implementation strategy for the *Revised General Plan* policies for the Rural Policy Area (Chapter 7), the Transition Policy Area (Chapter 8), and “basic” conservation design (Chapter 5). It is based on the review of the *Revised General Plan* and supporting background materials, existing land development codes, as well as discussions with Loudoun County staff and officials. It serves as the basis for preparation of a variety of amendments to the Loudoun County land use regulations (Zoning Ordinance, Facilities Standards Manual, and Land Subdivision Ordinance) to ensure that those regulatory documents are consistent with Plan policies.

More specifically, the report provides a detailed overview of the proposed structure and general substance of these amendments. It also provides similar detail for the implementation of conservation design principles. As part of the review and discussion of the report, Loudoun County elected officials, appointed officials, staff, and the public can provide additional direction about the nature and scope of this implementation effort before the Clarion team undertakes the actual drafting of these new regulations.

This introduction section provides a brief overview of the anticipated regulatory changes discussed in the report for each of the three policy areas. It is followed by a detailed discussion of each.

A. Rural Policy Area

The Rural Policy Area covers some 227,000 acres and more than two-thirds of the western portion of Loudoun County. There are 6 towns and 12 existing rural villages in the area. For planning purposes, it is divided into two tiers: the southern tier and the northern tier.

Rural in character, the dominant existing land uses are agriculturally-related -- horse farms; cattle ranches; vineyards; wineries; and farm support businesses like veterinary clinics, farm equipment and feed stores. The economy of the area is dual: its base is found in these “rural economy” activities. These activities, in conjunction with visitor accommodations like country inns and restaurants found primarily in the towns and Existing Rural Villages, along with the open rural character found in the balance of the Rural Policy Area, provide the foundation for the County’s tourism industry.

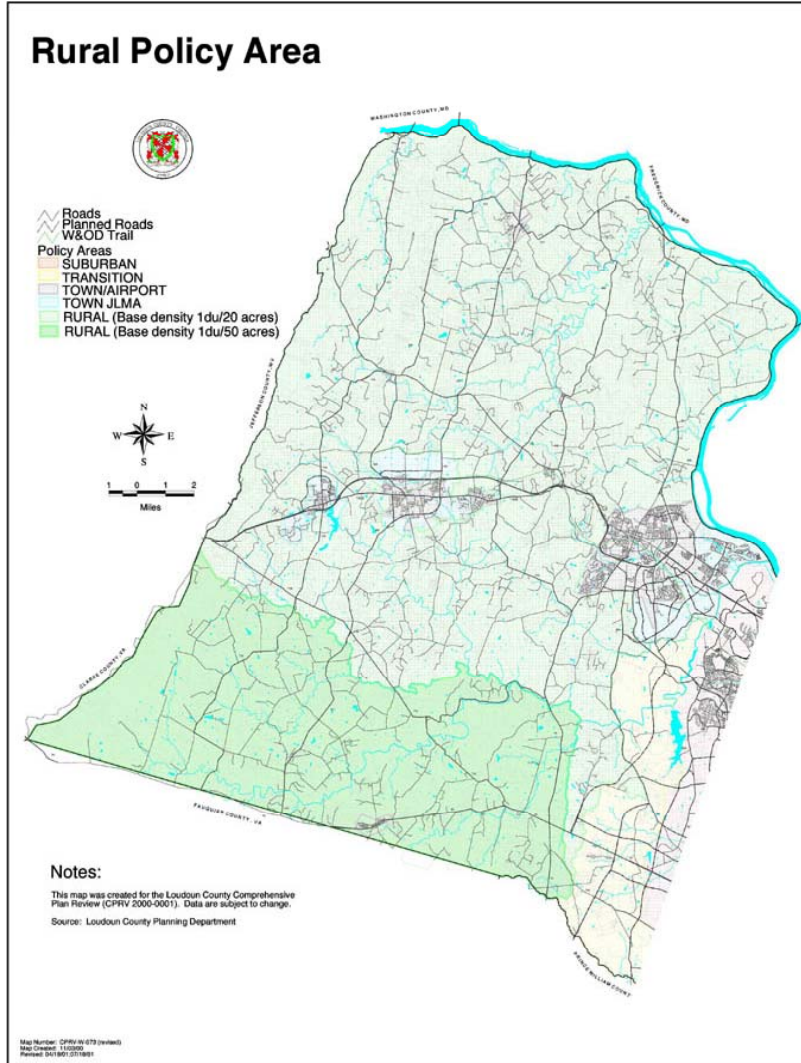


Figure 1: Rural Policy Area

- Maintain the area's rural character;
- Maintain and preserve the rural economy uses;
- Maintain and preserve the County's tourism industry;
- Protect the environment and "Green Infrastructure"; and
- Ensure that the area's roads do not become unsafe and congested.

To implement the *Revised General Plan* policy direction for the Rural Policy Area, we recommend that three new zoning districts and related regulations be developed.

Over the years, an increasing number of visitors have been attracted to the County to ride horses or watch events at horse farms or equine facilities; relax at local bed and breakfasts; shop for antiques; take farm tours, hayrides, or pony rides; and fish at local farms. They also visit local wineries, canoe the area's rivers and streams, or undertake a combination of these activities.

To protect the general rural character, economy, and environmental quality of the Rural Policy Area, land use regulatory initiatives and other actions are necessary to:

- **A new AR-1, Agriculture Rural-1,** district that applies to lands in the northern tier of the Rural Policy Area, except lands within Existing Rural Villages and existing A-10 district lands subject to rezoning proffers (The existing A-25 and A-3 districts are proposed to be deleted from the zoning ordinance.);



Typical Loudoun County Farm

- **A new AR-2, Agriculture Rural-2,** district that applies to all lands in the southern tier of the Rural Policy Area, except lands within Existing Rural Villages, and existing A-10 district lands subject to rezoning proffers; and
- **A new RVC, Rural Village Conservation,** district that is established for the villages, but will not be applied until meetings and consultation with the village councils and other village groups. (In the interim, the existing RC, CR-1, CR-2, CR-3 and CR-4 districts will be maintained in the villages.)

B. Transition Policy Area

Moving east from the Rural Policy Area, the Transition Policy Area covers approximately 7 percent of the total land area of Loudoun County. Located west of Dulles Airport and south of Leesburg, this planning area runs north and south, separating the Rural Policy Area from the more urbanized Suburban Policy Area. For planning purposes, 6 different sub-areas, based on drainage basins, have been designated for different treatment under the *Revised General Plan*.

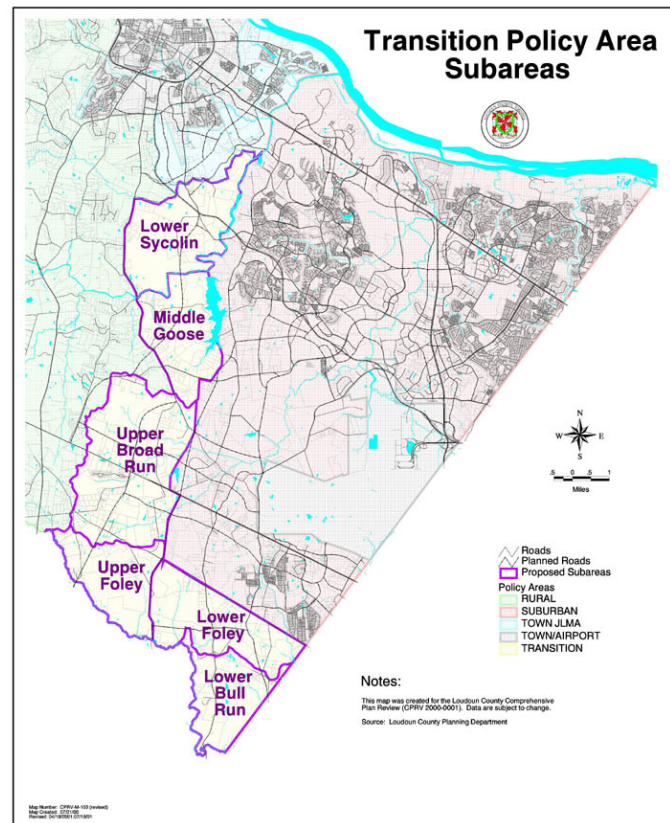


Figure 2: Transition Policy Area

As noted in the *Revised General Plan*:

The Transition Policy Area is envisioned as a distinct planning area to serve as a visual and spatial transition between the Suburban Policy Area to the east and the Rural Policy Area to the west. Portions of the Transition Policy Area will serve as future phasing areas to relieve development pressures. It is envisioned that the Transition Policy Area will afford some unique development opportunities within Loudoun County at intensities greater than those typically permitted in the Rural Policy Area. New development designs within the policy area will incorporate both suburban and rural features. (*Revised General Plan at 8-1.*)

Recommended policy implementation in the Transition Policy Area will address the following zoning issues:

- **Lower Sycolin and Middle Goose Sub-Areas.** Preparation of a new base zoning district (TR-10) for the Lower Sycolin and Middle Goose sub-areas in the northern portion of the Transition Policy Area. This district will establish a base density of 1 dwelling unit per 10 acres with a mandatory cluster residential requirement retaining 70% open space (TR-10);
- **Upper Broad Run, Upper Foley and Lower Foley Sub-Areas.** Revising and renaming the A-3 and CR-1 districts for the Upper Broad Run, Upper Foley and Lower Foley sub-areas to distinguish these zoning districts located in the Transition Policy Area from other areas of the County. These districts will require cluster residential development and 50% open space, provide for nonresidential uses, and include general standards to address the intensity and scale of such uses. They will be renamed TR-3 and TR-1, respectively;
- **Lower Bull Run Sub-Area.** Application of the new TR-3 district (with densities at 1 unit per 3 acres) in the Lower Bull Run sub-area with a mandatory cluster requirement retaining 70% open space;
- **Mandatory Residential Cluster Development Provisions.** The incorporation of mandatory residential cluster requirements for use in all the districts in the Transition Policy Area;
- **New Countryside Village District.** The preparation of a new PD-CV (Planned Development - Countryside Village) District to be available for rezonings in the Upper Broad Run, Upper Foley, and Lower Foley sub-areas; and

- **Changes to Rural Village District.** The revision of selected standards in the PD-RV (Planned Development - Rural Village) District in an effort to improve upon the desired type of village development in the Lower Sycolin, Middle Goose, and Lower Bull Run sub-areas. This option is available for applicant initiated rezonings in these sub-areas.

C. Conservation Design

The next part of the report summarizes a process that would be applied in Loudoun County to begin to implement the conservation design principles embodied in the *Revised General Plan*. More detailed standards and procedures would be developed in phase 2.

Conservation design is a method of land development that conserves the Green Infrastructure elements of a site while providing for development at full density credit on the remainder of the site. The Plan policies direct that all residential and nonresidential development throughout the County be subject to the application of conservation design principles.

We recommend a 4-step process that results in delineation of a buildable area on a site based upon the identification of primary and secondary conservation areas that must be set aside and regulated to protect natural and cultural resources and open space. Protection of primary conservation areas is paramount in the conservation design process. Secondary conservation areas are addressed in the conservation design process but in a more flexible fashion.

Primary conservation areas include:

- River and stream corridors as defined in the *Revised General Plan*;
- Steep slopes (slopes greater than 25%);
- Mountain ecosystem sensitive areas (defined through a combination of elevation, soils, slopes, and forest cover); and
- Limestone/Karst areas.

Secondary conservation areas include, among others:

- Prime agricultural lands;
- Streams (not included as part of river and stream corridor overlay districts);
- Historic and archeological resources;
- Forest, trees, and vegetation;
- Plant and wildlife habitats (including wetlands);
- Scenic corridors and views;
- Greenways and trails; and
- Parks and recreation areas

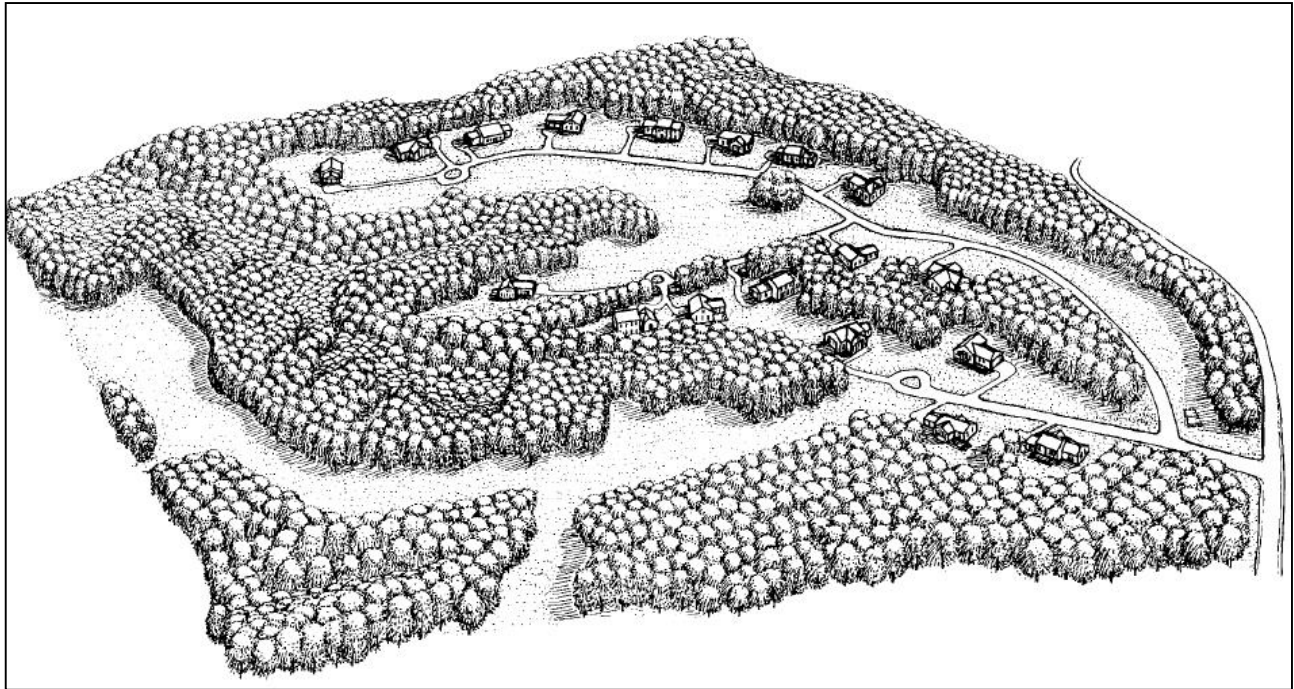


Figure 3: Example of Conservation Design

The 4 step process involves: analysis of the site and preparation of a map identifying the primary/secondary conservation areas; a site visit; delineation of conservation and development areas; and preparation of a conservation design plan for the site consistent with conservation design principles. The 4 step process is laid out in more detail in Section 4.

D. Vested Rights/Transitional Rules

Many significant changes in the County's land use regulations are being suggested to implement the *Revised General Plan*. While these changes are essential to making the Plan's vision a reality, they also raise one of the key issues of any plan implementation effort: Whether and to what extent the new regulations and procedures should apply to pending development applications and existing uses and lots. Experience in other jurisdictions that have adopted comprehensive amendments to their land development codes shows the ultimate success of such efforts is often tied to how thoughtfully and sensitively they dealt with vested rights and the rules to govern the transition from outdated code provisions to new ones. This section briefly highlights some of the key issues for County officials and the public to consider in shaping these transitional rules that will be included in the revised land use regulations.

E. Summary

The following pages present a detailed outline for these new regulations. Also included is general commentary, where appropriate, to explain the purpose or rationale behind certain sections and, in some cases, different options for Loudoun County to consider. Appendix

A: Outline of Revised Land Use Regulations, contains an outline that shows where these proposed changes fit into the County's existing land use regulations.

This report is intended to be used as a tool to focus discussion on key implementation and regulatory issues before the consulting team begins drafting new zoning districts and related standards and procedures. In addition to providing a road map for drafting the new regulations, the outline provides an organizing framework for continued discussions of key zoning and development regulation issues.

This report will be reviewed by staff and discussed with the Planning Commission, Board of Supervisors and public. Following this review and comment period, the Clarion team will begin drafting the new land use regulations based on direction from the County.

II. Rural Policy Area

A. Overview

This section of the report addresses the specific zoning map amendments the *Revised General Plan* directs be undertaken to implement the Plan policies for the Rural Policy Area. This is done by initially providing background on the Rural Policy Area relevant to this implementation initiative (II.B, *Background on Rural Policy Area*), and then discussing the general policy direction provided in the Plan to achieve Plan goals (II.C, *Plan Policy Direction for Rural Policy Area*).

This general discussion is then followed by the specific implementation proposals for zoning map amendments to carry out the Plan's policy direction (II.D, *Implementing the Plan Policy Direction*).

B. Background on the Rural Policy Area

The Rural Policy Area is where the County's 240-year old farming community is located. It includes all of the western part of Loudoun County outside the towns and JLMAs. It is generally west of Leesburg's municipal limits, and is about 227,900 acres in size. The Rural Policy Area constitutes about two-thirds of the lands in the County. It is divided into two tiers based on distinctions between their character and existing land uses: the southern tier and the northern tier. There are six towns and 12 Existing Rural Villages in the Rural Policy Area.

1) *The Southern Tier of the Rural Policy Area*

The southern tier (see Figure 4) constitutes about one-third of the identified Rural Policy Area. It is bounded by Goose Creek and the North Fork of Goose Creek to the County

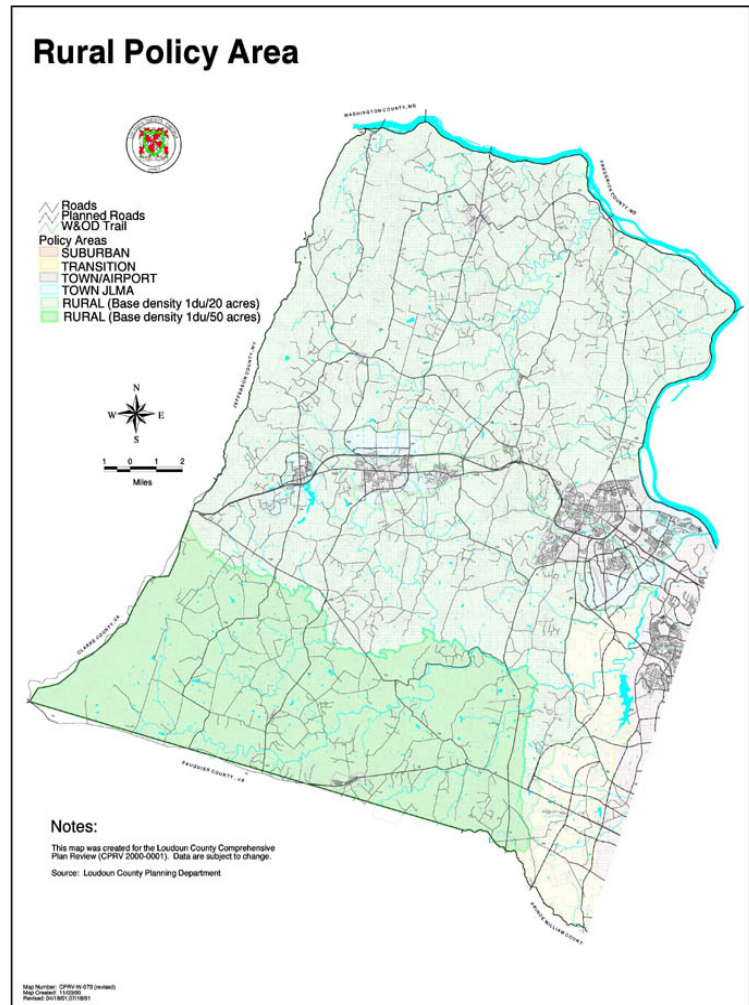


Figure 4: Rural Policy Area

border with Fauquier County on the north; the Loudoun/Fauquier and Loudoun/Prince William County lines on the south; and the Transition Policy Area to the east.

There is one incorporated town in the southern tier, Middleburg, and three Existing Rural Villages (Aldie Mountain, Aldie and St. Louis). Middleburg is an historic town that dates back to 1787, with beds and breakfasts and small inns, restaurants, and other commercial uses. It is a major tourist attraction. Like all the Existing Rural Villages in the Rural Policy Area, the villages in the southern tier serve as community focal points. There are limited commercial and community-serving uses in the southern tier outside Middleburg and the Existing Rural Villages.

Existing land uses outside Middleburg and the villages are primarily rural, agricultural, and agricultural-related.² They include farms producing agricultural products including livestock for food production (cattle and sheep); horses for recreational use (and related sales, breeding, training, and the like); and small grain and forage crops. Crops introduced to farming in the area since the 1950s include vineyards, Christmas trees, ornamental horticultural plants (trees, shrubs, annuals, perennials) and edible horticultural plants (vegetables, fruits and berries). Agriculture related or support businesses include veterinary clinics, farm equipment sales and service and feed milling or sales businesses and the like. Home-based and small-scale contractor or services businesses also can be found scattered as

accessory uses to residential uses. Increasingly, farm products are marketed directly to consumers, including many tourists using such events as County-sponsored Farm Tours and family recreation oriented pick-your-own (P-Y-O) seasonal market promotions. Ancillary to these family recreation venues are pony rides, small animal petting areas and the like.



Trappe Road in the southern tier of the Rural Policy Area

There are many historic structures and sites in the southern tier, including a number of Civil War sites. Relative to the other portions of the County, land ownership patterns in the southern tier consist of large parcels.

² A significant number of these lands are under some form of voluntary conservation easements that limit development potential.

The majority of lands in the southern tier are designated A-3 (Agricultural Residential) or A-10 (Agriculture), under the zoning ordinance. The A-3 zoning district allows residential development at 1 unit per 3 acres. The A-10 zoning district allows residential development at 1 unit per 10 acres. Both districts allow a variety of nonresidential uses as well.

Over the past decade, a growing, but limited number of traditional 3-acre residential subdivisions have been approved and developed in the southern tier. The *Revised General Plan* finds this type of low density residential development harms the rural economy by eroding lands for rural economy uses; negatively affects the preservation of the County's Green Infrastructure by haphazardly impinging on natural features; results in a deterioration of the general open character of the area; overburdens the areas roads; and hurts the tourism industry by impairing the rural economy uses that attract tourists to the County.

2) The Northern Tier of the Rural Policy Area

The northern tier consists of about two-thirds of the Rural Policy Area. It is generally bounded by the Potomac River on the north; Goose Creek and the North Fork of Goose Creek to the County border with Fauquier County on the south; and the Transition Policy Area on the east (See Figure 4). The focal points of community activity in the northern tier are the five incorporated towns (Hamilton, Hillsboro, Purcellville, Round Hill and Lovettsville); the JLMAs of Hamilton, Purcellville and Round Hill; and the nine Existing Rural Villages (Neersville, Loudoun Heights, Bluemont, Lincoln, Philomont, Paeonian Springs, Waterford, Taylorstown and Lucketts). In those communities, there are generally limited and small-scale commercial, visitor accommodation, retail, office and related uses. As in the southern tier, there are very limited non-residential, non-farm related commercial activities located outside the towns and villages.

The existing land uses in the northern tier outside the towns, JLMAs and villages are primarily agricultural and farm-related.³ The scale and type of farming operations, however, are different from the southern tier. The northern tier contains the fruit and vegetable production, much of the Christmas tree production and most of the wineries. These operations tend to use smaller lots than the agricultural activities in the southern tier.

The majority of lands in the northern tier are zoned A-3. The A-3 zoning allows residential development at 1 unit per 3 acres. Land ownership patterns are a mix of large and small parcels.

A growing number of traditional residential subdivisions with 3-acre lots have been approved and developed in the northern tier. The *Revised General Plan* finds this development has the same type of negative effects on the rural character of the northern tier, as it does on the southern tier.

³ There is one exception to this. More concentrated rural residential development exists around Lovettsville, Philomont, and the Route 7 corridor at densities of 1 unit per 4-5 acres.

3) *The Existing Rural Villages*

The other lands outside the towns in the Rural Policy Area consist of the 12 Existing Rural Villages. As is mentioned earlier, three are located in the southern tier (Aldie Mountain, Aldie and St. Louis) and nine are located in the northern tier (Neersville, Loudoun Heights, Bluemont, Lincoln, Philomont, Paeonian Springs, Waterford, Taylorstown and Lucketts). These villages grew up around crossroads, a railroad depot, a mill, a church and a store. The Plan states:

Today, they serve as focal points for the surrounding rural area and exert a social and 'place name' influence extending beyond their visual and physical boundaries. These villages are unique scenic and historic resources (*Revised General Plan* at 7-20).

Because they are a focal point of community with churches, schools, lodging, stores, fire stations, post offices and community centers, the villages contribute to the rural economy, tourism and the general quality of life in the Rural Policy Area.

4) *Roads*

The road network in the Rural Policy Area was designed and developed to serve the needs of a farming community. As discussed in the Plan, the roads were originally designed to accommodate horse-drawn carriages over two centuries ago. Even today there are 300 miles of dirt and gravel roads less than 16 feet in width. Furthermore, many of the two-lane undivided paved roads have narrow widths, excessive horizontal and vertical curvatures, bridge and drainage problems and poor intersection alignments.

Given their character and nature, the *Revised General Plan* recognizes that the roads in the Rural Policy Area lack the capacity to accommodate development at levels consistent with the existing A-3 zoning district designation without substantial improvements at great cost. In fact, over the past decade, and due to the traditional 3-acre subdivision development, traffic on the roads has become congested during peak times, and maintenance requirements have increased.

The Plan finds that neither the County nor the State of Virginia have the fiscal capacity to make the road improvements to accommodate development levels consistent with the existing A-3 zoning district.

Consequently, if these roads are going to be maintained in safe and uncongested condition, it will be necessary to reduce the overall development densities in the area.

5) *The County's Tourism Industry*

The largest component of the County's tourism industry is directly linked to the Rural Policy Area with its existing rural economy uses and rural character. The *Revised General Plan* recognizes the maintenance of the County's tourism industry is based on:

- The maintenance, preservation and expansion of these rural economy uses that attract tourists to the County;
- The maintenance and preservation of the accommodation and related facilities (bed and breakfasts and restaurants) for tourists in the towns and villages; and
- The maintenance and preservation of the other physical attributes that support the rural economy uses and character of the Rural Policy Area – such as the Green Infrastructure, the general open character of the area, and the form, context, and scale of the towns and villages in the Rural Policy Area.

C. General Plan Direction

Given the existing conditions and characteristics of the Rural Policy Area, and the general community goals in the County with respect to growth and development in the Rural Policy Area, the *Revised General Plan* makes the following general findings and provides the following general policy direction for maintaining, protecting and enhancing the agricultural and rural character of the Rural Policy Area.

1) *Maintain and Enhance Rural Economy Uses*

If the County's rural economy is going to continue to flourish and be sustainable, it is essential that rural economy uses be the dominant uses in the Rural Policy Area. In establishing rural economy uses, it is important to recognize the dual nature of the rural economy: its base is found in rural economy agriculture-related activities and related support businesses, services, and research. These activities, in conjunction with visitor accommodation uses (bed and breakfasts, country inns and small hotels/motels), restaurants, and on-going tourist-related activities that emanate from the basic rural economy uses (farm tours, hayrides, pony rides, animal petting areas, and fishing ponds) provide the foundation for the County's tourism industry.



Rural Economy Land Use

2) Maintain Rural Character by Modifying Residential Development Densities and Form

In order to maintain and preserve the rural and tourist economy, the general rural character of the area, and to ensure the roads do not become congested and unsafe, it is important that the density, form and character of residential development is modified to ensure it is compatible with the rural economy uses, the Green Infrastructure, and the general agricultural and rural character of the area.

Specifically, the County's land use regulations should be amended so that single-family residential development conforms to the following requirements:

- In the northern tier, maximum residential densities should be established at 1 dwelling unit per 20 acres, with a residential cluster option that allows a maximum density of 1 dwelling unit per 10 acres.
- In the southern tier, maximum residential densities should be established at 1 dwelling unit per 50 acres, with a residential cluster option that allows a maximum density of 1 dwelling unit per 20 acres.



Typical A-3 Subdivision

3) Protect Green Infrastructure

The Green Infrastructure, which consists of stream corridors, floodplains, wetlands, steep slopes, ridges, mountainsides, woodlands, wildlife habitats, historic and archeological sites, scenic by-ways and vistas and public open space, provides the natural foundation of the open and rural character of the Rural Policy Area. It should be protected and maintained. To achieve these objectives, the development of land should occur consistent with the conservation design principles established in the *Revised General Plan*.

4) Protect the Character of Existing Rural Villages

To maintain and protect rural character, it is also important to maintain and protect the unique identity and sense of place of the Existing Rural Villages, as well as their traditional development patterns and uses. They support the County's rural economy by providing compact locations for non-agricultural-related commercial and service uses, and general community-serving uses; support tourism by providing compact locations for tourism uses and related services; and provide a sense of history and support the traditions of the Rural Policy Area.

D. Implementing the Plan Policy Direction

1) Overview

To implement the *Revised General Plan* policy direction for the Rural Policy Area, it is recommended that three new zoning districts and related regulations be developed.

- A new **AR-1, Agriculture Rural-1**, district that applies to lands in the northern tier of the Rural Policy Area, except lands within Existing Rural Villages and existing A-10 district lands subject to rezoning proffers. (The existing A-25 and A-3 districts are proposed to be deleted from the zoning ordinance.);
- A new **AR-2, Agriculture Rural-2**, district that would apply to all lands in the southern tier of the Rural Policy Area, except lands within Existing Rural Villages, and existing A-10 district lands subject to rezoning proffers; and
- A new **RVC, Rural Village Conservation**, district that is established for the villages, but will not be applied until meetings and consultation with the village councils and other village groups. (In the interim, the existing RC, CR-1, CR-2, CR-3 and CR-4 districts will be maintained in the villages.)

These specific changes are identified in Appendix A: Outline of Revised Land Use Regulations, which specifically identifies the section changes to the County's land use regulations that will be made to implement the changes discussed in this report.

In reviewing this material, several matters should be noted. First, there is a great degree of similarity between the structure, uses, and development approach suggested in the AR-1 and AR-2 districts. However, because there *are* some modest differences between the districts, there are two distinct districts that are proposed to apply to the northern and southern tiers. Second, basic conservation design principles, which are proposed to be applied throughout the County in this effort, are integrated into all three new districts. How this integration occurs is discussed in more detail in Section IV (*Conservation Design*).

In the three sections that follow, the specific structure and approach of these proposed three new districts are outlined in detail. To ensure each district is consistent with the *Revised General Plan* policy direction, where relevant, the specific Plan policy direction is identified.

The Plan policies relevant to the general structure of the two new AR districts are identified in the table that follows.

**POLICIES IN CHAPTER 7: RURAL POLICY AREA
RELATED TO GENERAL STRUCTURE OF AR DISTRICTS**

Land Use Pattern and Design Strategy Policies (Plan at 7-4 and 7-5)

1. The County values the rural character of the Rural Policy Area, formed by the elements of the Green Infrastructure and the working landscape, and will protect it by supporting and enhancing the rural economy, and by incorporating conservation design and regulations in the land development ordinances.

8. The County supports the Rural Policy Area as a permanent rural landscape, a unique composite of natural and man-made environments, farms and forest areas, natural areas and wildlife habitats, villages, and hamlets. The County will permit development in the Rural Policy Area that promotes opportunities for the expansion of rural economic uses, open space, farms, historic and natural areas, forests, the green infrastructure, and protects the rural character of the landscape.

Rural Economy Policies (Plan at 7-7 to 7-9)

1. The County will foster and expand the diversity and richness of the rural economy through a variety of policy, regulatory, incentive-based, and programmatic approaches and will protect the rural resource base, including open, farmable land; all elements of the Green Infrastructure; historic and agricultural structures, and the rural character features necessary to advance the rural economy.

Rural Economy Incentive Policies (Plan at 7-9 to 7-12)

19. The County will facilitate a robust rural economy by revising its Zoning Ordinance to expand permitted by-right nonresidential uses in the rural area, subject to performance and location criteria. Examples of such uses could include new equestrian centers and boarding facilities, additional vineyards and wineries, event facilities, nurseries, conference centers, corporate retreats and training facilities, telecommuting facilities, heritage and rural tourism destinations, truck farms and farmers markets, agricultural biotech startups, bed and breakfasts, restaurants, and related service firms.

Rural Residential Policies (Plan at 7-14 to 7-15)

1. The Rural Policy Area is comprised of three geographic areas governed by unique land use policies. These sub-areas include the southern one-third of the Rural Policy Area, Existing Villages, and the northern two-thirds of the Rural Policy Area. The County will develop and implement conservation design and rural design standards that protect the green infrastructure and rural character of the Rural Policy Area in every sub-area.

2. The southern part of the area is planned for rural economy uses and limited residential development at a density of 1 dwelling unit per 50 acres. In this area, residential densities can be increased up to 1 dwelling unit per 20 acres when it is developed in a clustered pattern in lots up to 3 acres leaving substantial amounts of land available for rural economy uses.

3. The northern part of the Rural Policy Area is planned for rural economy uses and limited residential development at a density of 1 dwelling unit per 20 acres. Likewise, residential densities in this area can be increased up to 1 dwelling unit per 10 acres when it is developed in a clustered pattern in lots up to 3 acres leaving substantial amounts of land available for rural economy uses.

4. The County provides for clustered and large lots and low density to ensure the preservation of parcels at a size conducive for commercial and non-commercial rural economy uses, as well as to protect the Green Infrastructure, preserve rural character, minimize the problems of increased traffic, and reduce the need for additional public and commercial facilities and services.

11. Rural Cluster developments allow landowners to group lots in a traditional rural community pattern while preserving the majority of the land base for rural economy uses. A Rural Cluster is the grouping of building units on small lots with the largest part of the site remaining in open land. There is no minimum lot size for the clustered lots. The cluster is both visual and spatial with the dwellings scaled and sited to maintain coherent relationships to each other and the surrounding landscape. The residual open land accounts for the overall lower density of the site and will serve to accommodate rural economy uses and preserve rural character.

Green Infrastructure Policies

1. The County will develop and implement rural subdivision design regulations that address the location of houses on the landscape, the use of cul-de-sacs, the retention of open space in contiguous parcels suitable for economic production; and the protection of green infrastructure features such as the best agricultural soils, stream corridors, wetlands, steep slopes, major ponds, important tree stands, historic structures and stone walls, and major rock outcrops and geological features.

2) AR-1, Rural District

(a) Proposed Approach

The major sections in the AR-1, Agricultural Rural district, designed to implement the *Revised General Plan* policies are outlined below, then discussed in more detail in the following subsections. The principal purpose of the district is to support the primary use of land for “rural economy” uses, with residential uses allowed secondarily in a form and context that is consistent with the general open and rural character of the rural economy uses. To the greatest extent possible, the rural economy uses are to be allowed as permitted uses, subject to performance standards (versus being allowed as special exception uses). To protect Green Infrastructure, development in the district is required to comply with conservation design principles.

SUMMARY OF CONTENTS

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(i) AR-1 Purpose

This section establishes the purpose and intent of the new AR-1 district. It will include language that reflects the goals, purpose, and intent for development of lands in the northern tier of the Rural Policy Area established in the *Revised General Plan*, by providing:

- The rural character of the Rural Policy Area is important to the historic, social, natural/environmental and economic fabric of Loudoun County and should be maintained, protected and enhanced.
- The key attributes of rural character outside the Existing Rural Villages are:
 - The rural economy uses that form the dominant and most important part of the agricultural economy and tourist economy in the County;
 - The related tourist accommodation uses and on-going tourist-related activities emanating from the basic rural economy uses;
 - The Green Infrastructure (stream corridors, floodplains, wetlands, steep slopes, ridges, mountainsides, prime agricultural lands, woodlands, wildlife habitats, historic and archeological sites, scenic by-ways and vistas and public open space) that provides the natural and historic foundation of the open and rural character in the Rural Policy Area; and
 - The general open character of the rural economy uses.
- It will go on to state the intent and purpose of the AR-1 district is to:
 - Recognize rural economy uses are the dominant uses in the Rural district by allowing for a broad range of such uses, including traditional and new agricultural uses, business and service uses related to these uses, agricultural uses, low impact non-rural uses that can be developed in ways that are consistent with the rural character of the rural economy uses.
 - Recognize the County's tourism industry is interconnected with the rural economy and rural economy uses in the district by allowing for tourism uses related to traditional and new agricultural uses, and rural activity and special event uses for tourists related to the traditional and new agricultural uses.
 - Ensure that residential development is consistent with the open character of the rural economy uses by requiring either very low density residential development or the clustering of residential development in ways that are harmonious with rural economy uses. This will provide opportunities for rural economy uses to exist in conjunction with residential uses.
 - Ensure that residential development is designed and located in ways that are consistent with conservation design principles and protects

and maintains primary conservation areas and secondary conservation areas in ways that are consistent with the development of rural economy uses and the general rural character of the district.

(ii) *AR-1 Applicability*

This section of the AR-1 district will spell out that, except for the Existing Rural Villages, A-10 lands subject to proffered rezonings, and other “vested lands,” this zoning district applies to all of the lands in the northern tier of the Rural Policy Area as identified in the *Revised General Plan*.

(iii) *AR-1 Allowed Uses*

One of the key policy directions of the *Revised General Plan* is that a shift occur in the character of the new uses in the agricultural zoning districts in the Rural Policy Area. Instead of being primarily residential in character with agricultural uses allowed, which has been a trend in recent years, the new districts should reflect policies that encourage the primary use of land for “rural economy” uses, with residential uses allowed secondarily. These residential uses should be in a pattern and context that is consistent with the general open and rural character of western Loudoun County.

The underpinnings for this change in land use policy emanate from a Rural Economic Development Plan prepared by the County’s Rural Task Force, *The 200,000 Acre Solution: Supporting and Enhancing a Rural Economy for Loudoun’s 21st Century* (hereinafter “*The 200,000 Acre Report*”). *The 200,000 Acre Report* recognizes that the County’s “rural economy” is divided into three general components, each interrelated and dependent on the other. These three components consist of (1) basic agricultural uses and activities (agriculture, horticulture, and animal husbandry); (2) tourism (uses and related service uses); and (3) support businesses (repair, service, retail, and related uses) that are related to the basic agricultural activities. The report recognizes these three components of the rural economy are interrelated and dependent on the other, and if the County is to maintain and grow each of these components, it is necessary to recognize their interrelationships and provide options for growth of the rural economy uses.

Based on *The 200,000 Acre Report* and additional materials and discussion about the appropriate policy direction for the Rural Policy Area, the County adopted a group of policies in Chapter 7: Rural Policy Area of the *Revised General Plan* relevant to the character and nature of uses contemplated for the new zoning districts. They are set down in the table below.

POLICIES IN CHAPTER 7: RURAL POLICY AREA RELATED TO ALLOWED USES

Land Use Pattern and Design Strategy Policies (Plan at 7-4 and 7-5)

3. The County will protect its land resources for farming, bio-agricultural industries, vineyards, Christmas trees, forestry, nurseries, fruit and specialty vegetable production, and other innovative agricultural uses that contribute to the rural economy, as part of an overall rural economy strategy by reducing substantially the County's development density, thereby increasing the investment potential and attractiveness of agricultural land for families and businesses.

5. The County will facilitate and promote programs that support the expansion of equine-related businesses, non-traditional businesses, and direct-market rural businesses such as orchards, vineyards, nurseries, flower farms, and commercial stables, that generate rural tourism and enhance the overall rural economy while preserving rural character.

6. The County supports the creation of a variety of opportunities for rural commercial, industrial, employment, and institutional activities that preserve rural character and that are compatible with the dominant rural land-use pattern in the Rural Policy Area. Rural business uses will meet established performance criteria, including traffic capacity limits, employee limits, meet site design standards (i.e. buffering, use intensity, siting, architectural features) and pose no threat to public health, safety and welfare. Appropriate uses include bed-and-breakfast enterprises, country inns, rural retreats and resorts, private camps and parks, farm markets, wayside stands, small businesses, rural corporate retreats, small corporate office and training facilities, bio-tech research facilities, private schools or medical facilities, private conference centers, meeting facilities, and similar types of uses. Where possible, such uses should locate in existing historic and/or agricultural structures.

Rural Economy Policies (Plan at 7-7 to 7-9)

3. The County will support the rural economy by facilitating the development of rural businesses that are compatible in scale, use, and intensity with the rural environment and preserve large areas of land to be used for agriculture, forestry, and viticulture. The Zoning Ordinance will include innovative types of agricultural uses. New programs and amendments to the Zoning Ordinance will permit flexibility in the sale of farm products and related auxiliary products; provide more alternatives to promote rural tourism; and provide opportunities for rural conference or retreat centers, private camps and parks, and similar kinds of low-intensity, rural land uses subject to the capacity of rural roads, ground water, and limited employment generation.

4. The County will allow a range of on-farm uses by right on working farms to allow a rural property-owner access to additional sources of income to supplement revenue from agricultural products, subject to performance criteria. Such uses will include small businesses that are a logical extension of the farm use, including farm product sales and services related to agriculture (i.e. farm co-ops, wayside stands, welding services, farm machinery repair, rental and leasing), to provide economical and convenient services to the rural economy, and to provide for the operation of home-based businesses that are compatible with the rural landscape. Such uses will be compatible in scale, size, and intensity with the primary agricultural use and the rural environment, and will be subject to performance standards.

6. The County will facilitate the expansion of rural hospitality businesses, such as bed and breakfasts and country inns, which preserve the rural character while offering services that support rural tourism.

8. The County supports the development of businesses necessary to support the County's agricultural and equine industry, including agricultural equipment sales, rental, and repair services, veterinary services, product storage, and seed supply.

9. The County recognizes both the commercial and recreational equine industry as a fundamental component of the rural economy and will promote its expansion. County ordinances will be amended to reflect the current practices and needs of the industry.

POLICIES IN CHAPTER 7: RURAL POLICY AREA RELATED TO ALLOWED USES

14. New non-rural commercial uses that are not compatible with the dominant agricultural land use pattern will be allowed to locate only in the towns. The County may permit non-agriculturally related commercial uses by special exception in the Rural Policy Area if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety and welfare, and if the use helps to preserve farmland and open space and continue agricultural operations.

16. Existing non-conforming commercial, industrial, and institutional uses in the Rural Policy Area may be expanded by special exception if the use and proposed expansion are small scale, agriculturally based, pose no serious threat to public health or safety, and meet applicable performance standards.

17. Expansions to existing institutional uses will be permitted in the Rural Policy Area if the proposed expansion is compatible with neighboring uses and poses no serious public health or safety problems and if the necessary infrastructure and supporting or ancillary activities can be provided cost effectively.

18. Golf courses in rural areas will be permitted only by Special Exception.

Rural Economy Incentive Policies (Plan at 7-9 to 7-12)

18. The County will invest in such marketplace incentives as may reasonably be determined to encourage rural entrepreneurs to locate in Western Loudoun. Further, the County will adopt a set of supporting regulations and ordinances designed to enhance the effectiveness of those incentives.

19. The County will facilitate a robust rural economy by revising its Zoning Ordinance to expand permitted by-right nonresidential uses in the rural area, subject to performance and location criteria. Examples of such uses could include new equestrian centers and boarding facilities, additional vineyards and wineries, event facilities, nurseries, conference centers, corporate retreats and training facilities, telecommuting facilities, heritage and rural tourism destinations, truck farms and farmers markets, agricultural biotech startups, bed and breakfasts, restaurants, and related service firms.

Rural Residential Policies (Plan at 7-14 and 7-15)

9. A variety of residential unit types and accessory apartments will be permitted by the Zoning Ordinance in the Rural Policy Area to achieve affordability and conservation design objectives.

(a) *The Allowed Uses*

In developing a structure for the allowed uses for the new AR-1 district (as well as the AR-2 district) to implement the *Revised General Plan* policies outlined above, the consulting team has followed several general principles set forth in *The 200,000 Acre Report* and the *Revised General Plan*:

- The new districts should reflect policies that support the primary use of land for “rural economy” uses, with residential uses allowed secondarily, in a form and context that is consistent with the general open and rural character of the rural economy uses.
- The rural economy uses should consist of three basic use categories:
 - The basic agricultural uses and activities (agriculture, horticulture and animal husbandry). These basic agricultural uses and activities should include both traditional and new or innovative agricultural activities.

- Tourism (uses and related service uses). These uses primarily consist of bed and breakfasts, bed and breakfast inns and related tourism uses that are similar to the types of uses that presently exist in the rural area of the County. They, however, should also include rural retreat uses.
 - Support businesses (repair, service, retail, and related uses) related to the basic agricultural uses and activities. The support businesses are further categorized as those that are directly associated with an on-going basic agricultural activity, on the site of the property, versus a support business that is off-site. Off-site support businesses shall be small-scale in nature. They may include such uses as farm products sales, welding services, farm machinery repair and leasing. Larger-scale operations will be directed into the Towns. In addition, biotechnical agriculture, including demonstration farms and agricultural museums should be considered as legitimate off-site support businesses, since they support basic agriculture and tourism. Animal services (e.g., veterinary services and animal hospitals) are also considered animal support businesses.
- In an effort to support and facilitate development of the basic agricultural uses/activities and the rural economy, the regulations should encourage and allow for increased development of tenant housing (both single unit and multiple family) either as new housing or an adaptive re-use.
 - Adaptive re-use of existing farm structures should also be allowed and encouraged for both basic agriculture, support agriculture and small-scale businesses, as long as the provisions of the Uniform State Building Code are met.
 - To the greatest extent possible, the rural economy uses should be allowed as permitted uses. If necessary and appropriate, additional regulations for specific uses (performance standards) should be imposed on the rural economy uses, to mitigate any potential adverse impacts versus treating the uses as special exceptions.
 - To encourage housing affordability, a variety of residential housing types should be allowed.
 - Single family residential housing, however, should be allowed only at very low densities or in a clustered form with substantial open lands.

- Basic public and institutional uses are allowed if they are compatible with neighboring uses. Expansions to existing institutional uses are allowed if the expansion is compatible with neighboring uses and the necessary infrastructure and supporting or ancillary activities can be provided cost effectively.
- Non-agriculturally related commercial uses are allowed, if the use is compatible with the rural economy uses in scale and intensity, and if the use helps to preserve farmland and open space.
- Nonconforming commercial, industrial and institutional uses may be expanded pursuant to special exception review, if the use and proposed expansion is small-scale, agriculturally-based, and meets any relevant additional regulations for specific uses (performance standards).

Based on these principles – *and as a starting point for discussion purposes* – we recommend a framework for organizing and then allowing either as by-right permitted uses or special exception uses a broad range of rural economy and related uses. *The emphasis is on allowing rural economy uses by right, subject to performance standards, where appropriate, and to apply conservation design and open space requirements.* It should be noted, however, that a few rural economy uses might be subject to special exception review. Pursuant to Rural Economy Policy 7, we have proposed an expedited special exception review process for these uses (or other rural economy uses the County believes should be subject to special exception review). The proposed expedited special exception process is discussed in Section II.D. 2(a)).

In an effort to provide greater precision, clarity and flexibility to the uses, we recommend the allowed uses in the new AR-1 and AR-2 districts be organized by *use classifications* (e.g., agricultural uses, residential uses, commercial uses, etc.). Use classifications organize land uses and activities into general “*use categories*” (e.g., horticulture and animal husbandry under the agricultural uses classification), and specific “*use types*” (e.g., the production of field grown crops, flowers, fruit, nursery stock, etc., under horticulture) based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

The general use classifications, use categories, and use types for both the AR-1 and AR-2 districts are identified in the use table for this section. The table also identifies whether the use type is proposed to be a permitted or special exception use. In the far right column, it identifies whether additional regulations for specific uses (performance standards) apply to the use. These additional regulations (performance standards) will be placed in Section 5-600 of the Zoning Ordinance. It is expected that a number of the uses in both the AR-1 and AR-2 districts will be subject to the performance standards. A framework outlining the parameters that will be considered in developing these special standards is presented in the section following the use table.

The use table organizes the uses in the district into five use classifications: agricultural uses; residential uses; public and institutional uses; commercial uses; and industrial uses.

1. *Agricultural Uses*

The majority of the rural economy uses are included under the agricultural use classification. They are divided into five agricultural *use categories*: agriculture; horticulture; animal husbandry; agriculture business support and services; and animal services. One of the principle purposes of this section is to allow as many agricultural uses by-right as possible, so they do not have to go through the special exception review process. In some instances, to achieve this objective, it will be necessary to apply performance standards to the use.

The first three use categories (agriculture, horticulture, and animal husbandry) collectively establish the three basic types of agricultural activities, as outlined in *The 200,000 Acre Report*.

Agriculture includes agronomy; aquaculture; biotechnical agriculture, including educational parks for biotechnical agriculture, or a demonstration farm; forestry; fishery; honey production; and similar uses. All these uses are identified as permitted uses.

Horticulture includes all horticulture related agriculture activities identified in *The 200,000 Acre Report* and *Revised General Plan*, including the production of Christmas trees; field grown crops; specialty crops; flowers; fruit; nursery stock; nuts; ornamental plants; sod; vegetables; and wine grapes. They are all identified as permitted uses.

Animal husbandry includes the raising and production of bison, cattle (beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep, and related activities. These uses are all identified as permitted.

The Agricultural Business Support and Services *use category* includes those businesses and services that are directly related to the farm and agricultural uses identified in the agriculture, horticulture and animal husbandry categories. Conceptually, the uses in this category can be broken down into two basic groups. The first are agriculture businesses and services that are directly related to on-going agricultural activities, and located on the site of the farm or ranch. These are generally small-scale activities used by the rural landowner for additional sources of income to supplement revenue from agricultural products (See Rural Economy Policy 4). They include uses like on-site, small-scale agricultural processing for products produced on-site; direct marketing sale of agricultural products produced on site; equestrian facilities; wayside stands;⁴ and farm co-ops. This type of agricultural business support and services includes both the production and sales of agricultural products and accessory products similar to that allowed under the wayside stand regulations (Section 5-604, Zoning Ordinance). The expectation is that some of these uses will be subject to a generic additional regulation for specific uses (performance standards).

⁴ One issue that has surfaced with respect to wayside stands, is that the area of the stand be increased from 600 square feet to 2,400 square feet.

The second group of Agricultural Business Support and Service uses involves agricultural support and services that are not necessarily located on the site of a farm or agricultural operation. To ensure that the general agricultural and rural character of the AR-1 district is maintained, these businesses will be required to be small-scale in nature. They include such uses as agricultural research; agricultural culture centers; businesses for custom operators; farm machinery repair; and mill feed and supply stores. This use category identifies some uses that are not presently identified in the A-3 zoning district. It also proposes to treat some of the uses that are presently reviewed as special exception uses, as permitted uses. The new uses are designated as (NEW) in the use table. Examples include direct marketing businesses of County agricultural products grown on the site or in the County or animal care businesses. Some of the uses presently treated as special exception uses that are proposed to be allowed as permitted uses include: nursery, commercial; neighborhood stable, on lots less than 25 acres; neighborhood stable, without state road frontage; and equestrian facility on less than 50 acres.

Amendments are also proposed to the small business regulations in the zoning ordinance (Section 5-614). They include deletion of the home occupation requirement so that the operators of the selected businesses are not required to reside on the premises and the modifications proposed in the 1999 Zoning Ordinance Amendments. Finally, the Agricultural Business Support and Service uses encourage the adaptive reuse of farm structures and buildings, both for residential and agricultural support and services uses.

The Agricultural Business Support and Services category addresses a number of Plan policies. It allows for on-farm uses by right on working farms (Rural Economy Policy 4). It allows as permitted uses non-traditional businesses and direct-market businesses such as orchards, vineyards, nurseries, flower farms and commercial stables (Land Use Pattern and Design Strategy Policy 5), and innovative agricultural uses (Rural Economy Policy 3). It allows as permitted uses small-scale businesses and services that are related to and support on-going agricultural activities (Land Use Pattern and Design Strategy Policy 6; Rural Economy Policy 8), at a scale and intensity that is compatible with the area's rural character (Rural Economy Policy 3). And it encourages the location of non-rural commercial uses not compatible with the rural and agricultural character of the area to locate in the Towns (by not allowing large-scale agricultural support uses) (Rural Economy Policy 14).

Finally, the animal service use category allows animal kennels (indoor and outdoor) and veterinary services as permitted uses, and animal hospitals as a special exception use.

2. Residential Uses

The residential *use classification* is grouped into two categories: Household Living and Group Living.

Rural Residential Policy 9 states that a variety of residential unit types and accessory apartments will be permitted by the zoning ordinance in the Rural Policy Area to achieve affordability.

In combination, the Household Living and Group Living use categories include a variety of residential units types. The Household Living category includes single family detached dwellings (including manufactured housing) and accessory apartments and dwellings. The Group Living category includes tenant dwellings (both single family and multi-family), co-housing and dormitories – all of which can be built by on-going agricultural activities, and rooming houses and congregate housing facilities.

3. *Public and Institutional Uses*

The public and institutional *use classification* includes several different *use categories*: aviation; day care facilities; cultural and governmental facilities; education; health services; park and open space; religious assembly; safety services; and utilities.

There is limited guidance in the *Revised General Plan* policies with respect to the treatment of public and institutional uses in the Rural Policy Area. Land Use Pattern and Design Strategy Policy 6 states, ... “The County supports the creation of a variety of opportunities for rural commercial, industrial, employment, and institutional activities that preserve rural character and that are compatible with the dominant rural land-use pattern in the Rural Policy Area.” However, in identifying appropriate uses, the only such use identified is medical facilities. Rural Economy Policy 17 states that expansions to existing institutional uses will be permitted if the proposed expansion is compatible with neighboring uses and poses no serious threat to public health or safety, and meets relevant performance standards. Rural Economy Policy 6 states that existing non-conforming commercial, industrial, and institutional uses may be expanded by special exception, if the use and expansion are small-scale, agriculturally based, pose no harm to public health or safety, and meet applicable performance standards.

The aviation category allows by special exception single airport landing strips (the A-3 district allows for airports by special exception).

The day care facilities category allows child care home as a permitted use and child or adult day care centers as a special exception. The cultural and governmental facilities use category allows aviaries; community centers; fairgrounds; and general governmental service uses. All the uses are special exceptions, except aviaries.

The health services use category allows medical offices and outpatient medical facilities as permitted uses.

The education use category allows public schools, vocational schools and private schools as special exceptions uses. The balance of the public and institutional uses are identified in the use table.

4. Commercial Uses

The commercial *use classification* includes several different categories: conference and training centers; food and beverage; office; recreation and entertainment; retail sales and service; and visitor accommodations.

Land Use Pattern and Design Strategy Policy 6 identifies as appropriate uses corporate retreats, private conference centers, meeting facilities and similar types of uses.⁵ Rural Economy Policy 3 states that the zoning ordinance should provide opportunities for rural conference and retreat centers, subject to the capacity of the rural roads, ground water, and limited employment generation. Using this as policy guidance, the conference and training center category identifies corporate training centers, conference and training center, rural agricultural corporate retreats,⁶ rural resorts and rural retreats⁷ as allowed uses. Corporate training centers and conference and training centers are new uses for the district.

Rural Economy Policy 14 directs that the only non-agriculturally related commercial uses that should be allowed in the AR-1 district are those that are compatible with the rural economy uses in scale and intensity. The *Revised General Plan* policy suggests the use should also help preserve farmland and open space and contribute to agricultural operations. Using this as policy guidance, the use table allows only a limited number of uses for both the food and beverage and retail sales and services categories. They include small-scale establishments that could support tourism. Specifically, food and beverage uses include teahouses, coffeehouses and restaurants as special exception uses. The retail sales and service category allows antique shops, art galleries or studios, auction houses, a convenience store with accessory pumps, country stores, craft shops, flea markets, home service establishments, and retail construction establishments.⁸ They are all proposed as special exception uses. It is expected that most will include additional regulations for specific uses (performance standards) limiting their size, location, bulk, scale and external impact.

Rural Economy Policy 3 supports the location of private camps and parks in the Rural Policy Area. The recreation and entertainment use category broadens the allowed camping

⁵ The policy also suggests that where possible, such uses should locate in existing historic and agricultural structures.

⁶ Rural agricultural corporate retreats is a use that is compatible with a primary agriculture use. Activities at the rural agricultural corporate retreat involve the testing, design, invention, evaluation, and development of new technologies, processes, or services. Rural Agricultural Corporate Retreats are to be utilized for basic and applied research wherein the scientific inquiry process is conducted in a manner similar to that of institutions of higher learning. They may include facilities for associated training programs, seminars, conferences, and related activities.

⁷ Both rural resorts and rural retreats include conference and meeting facilities, restaurant and banquet facilities and recreational amenities. The rural resort has more than 40 lodging units. The rural retreat has less than 40 lodging units.

⁸ These small-scale food and beverage and retail sales and services uses are not presently allowed in the A-3 district.

uses relative to the A-3 district by permitting day and boarding camps with 15 or fewer campers as a permitted use (larger day and boarding camps as a special exception), cross-country ski businesses (with skating), campgrounds (special exception), and outdoor amphitheaters (special exception). The use table, however, limits some of the existing allowed uses by deleting outdoor recreation establishment, which includes such uses as skating rinks and golf driving ranges. Pursuant to the direction of Rural Economy Policy 18, golf courses are maintained as a special exception use.

Land Use Pattern and Design Strategy Policy 6 identifies as appropriate uses small corporate office and training facilities. The policy suggests that where possible, such uses should locate in existing historic and agricultural structures. The office uses allowed are consistent with this policy direction. They include educational or research facilities related to the agriculture, horticulture and animal husbandry uses in the district; office uses as part of the adaptive reuse of an existing farm structure; and small offices – offices of less than 5,000 square feet.

Land Use Pattern and Design Strategy Policy 6 also identifies as appropriate uses bed and breakfast enterprises, country inns, rural retreats and resorts, corporate retreats, private conference centers, meeting facilities and similar types of uses.⁹ Rural Economy Policy 6 states the County will facilitate the expansion of rural hospitality businesses, such as bed and breakfasts and country inns. The visitor accommodation use category addresses these policy directives by using the existing broad range of rural hospitality uses allowed in the existing A-3 district. These uses include bed and breakfast homestays, guest homes, host homes, bed and breakfast inns, country inns, and guest farms. The major proposed change involves the identification of all of these uses as permitted, many subject to performance standards.

5. Industrial Uses

Consistent with the direction of the Plan policies, there are very few industrial uses allowed in the AR-1 district that are not directly associated with agricultural activity.¹⁰ They include the bottling of spring or well water; the telecommunication facilities presently allowed in the A-3 district, and yard waste composting. A number of the telecommunications facilities and the yard waste composting are allowed as special exceptions. Uses such as large feedlots, large-scale agricultural processing and packaging, and meat-packing plants are not allowed.

⁹ The policy also suggests that where possible, such uses should locate in existing historic and agricultural structures.

¹⁰ Land Use Pattern and Design Strategy Policy 6 begins by stating.... “The County supports the creation of a variety of opportunities for rural commercial, industrial, employment, and institutional activities that preserve rural character and that are compatible with the dominant rural land-use pattern in the Rural Policy Area.” The policy, however, when identifying “appropriate uses,” does not include any examples of industrial uses.

(b) *The Use Table*

The following table of uses is proposed to replace the long textual list of uses in the existing district regulations. As is noted above, it is a starting point for discussion purposes about the proposed uses in the AR-1 district. Additional public input is needed about which of these uses are appropriate, whether additional uses need to be added, and what additional regulations are necessary, before a final list of uses is developed.

The table identifies each use category and use type under each of the five use classifications. It next identifies whether the use is a permitted or special exception use. Finally, and after performance standards are prepared for the appropriate uses in the drafting stage of the project, they will be referenced in the final column of the table and included in Section 5-600 of the zoning ordinance.

AR-1 AGRICULTURAL RURAL -1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
AGRICULTURAL USES			
Agriculture (agronomy, aquaculture, biotechnical agriculture (including educational park for biotechnical agriculture, or a demonstration farm) forestry, fishery and honey production)	General Use Category	P	
Horticulture (production of Christmas trees, field grown crops, specialty crops, flowers, fruit, nursery stock, nuts, ornamental plants, produce or fruit grown from genetically engineered organisms, sod, vegetables, and wine grapes)	General Use Category	P	
Animal husbandry (raising and production of bison, cattle (Beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep)	General Use Category	P	
	Equestrian facilities	P	

AR-1 AGRICULTURAL RURAL –1 DISTRICT: TABLE OF ALLOWED USES

P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Agriculture Support and Services Related to Basic Agriculture, Horticulture and Animal Husbandry	Agriculture Support and Services directly associated with on-going agricultural activity, on-site (both the production and sale of agricultural products) (agricultural processing, animal care business, custom operators (haymaking, brush hogging, crop storage, hauling, fencing, barn construction), direct market business for sale of products produced on-site, equestrian facilities, farm structures (adaptive reuse), farm co-ops, farm tours, farm market, farm machinery repair, feedlot, pet farms, products combining recreation with consumption of agricultural products, portable sawmills (NEW), stables, wayside stand, wetlands mitigation bank, winery (total structures less than 20,000 square feet).	P	
	Sawmill	S	
	Small business uses	S	o Section 5-614
	Agriculture Support and Services not directly associated with agricultural activity (animal care business (NEW); custom operators (haymaking, brush hogging, crop storage, hauling, fencing, barn construction); equestrian facility; equestrian facility and infrastructure, public (horse trail network, show ring, cross country course, etc.) (NEW); farm machinery repair (NEW); mill feed and farm supply center (NEW); nursery (commercial); stable, neighborhood, on lots of 25 acres or more, or frontage on state maintained road; stable, private)	P	
	Agricultural research facility (NEW);	S	
	Farm machinery sales, rental and service (NEW)	P	o Section 5-615
	Nursery, commercial	P	o Section 5-605
Animal Services	Animal hospital	S	

AR-1 AGRICULTURAL RURAL -1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Kennel	P	o Section 5-606
	Kennel, Indoor	P	o Section 5-606
	Veterinary service	P	
RESIDENTIAL USES			
Household Living	Accessory apartment (defined as accessory dwellings in Zoning Ordinance)	P	o Section 5-613
	Caretaker's residence (NEW)	P	.
	Dwelling, single-family detached, including manufactured housing	P	o May use Rural Cluster option
	Guest house (accessory use)		o Section 6-612
	Home occupation	P	o Section 5-400
	Portable dwelling/trailer during construction of primary residence (NEW)	P	o Section 5-500
Group Living	Co-housing	P	
	Congregate housing facility	S	
	Dormitory, seasonal labor	S	
	Rooming house	P	
	Tenant dwelling	P	o Section 5-602 (A) and (C)
	Tenant dwelling, multiple family	P	
	Tenant dwelling, seasonal labor	S	o Section 5-602 (C)
PUBLIC AND INSTITUTIONAL USES			
Aviation	Airport/landing strip (NEW)	S	
Day Care Facilities	Child care home	P	o Section 5-609 (A)

AR-1 AGRICULTURAL RURAL –1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Child or adult day care center	S	o Section 5-609 (B)
Cultural and Government Facilities	Agricultural Cultural Center	S	
	Aviary (NEW)	P	
	Community center	S	
	Fairgrounds	S	
Education	School, private elementary or middle,	S	
	School (elementary, middle, or high; public or private) (Not defined, in use list)	S	
	Vocational school	S	
Health Services	Office, medical	P	
	Medical care facility, outpatient	P	
Park and Open Space	Arboretum (NEW)	P	
	Botanical garden or nature study area (NEW)	P	
	Cemetery, mausoleum or memorial park (not defined, in use list)	S	
	Crematorium	S	
	Horse trail networks	P	
	Nature preserve, such as but not limited to, wildlife sanctuary, conservation areas and game preserve	P	
	Trail or path for bicycling or walking (NEW)	P	
	Public or private community or regional park	P	
	Public or private playground, or neighborhood park	P	
Public Safety	Fire and/or rescue station	P	

AR-1 AGRICULTURAL RURAL -1 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Police station or substation	P	
Religious Assembly	Church, synagogue or temple	S	
Utility (Communal water and wastewater systems; Sewer pumping station (NEW); sewage treatment plant and pumping station; water pumping station; water storage tank; water treatment plant; Utility transmission lines, underground)	General Use Category	P	
	Recycling drop-off collection center, small	P	o Section 5-607
	Utility substation, transmission	P	o Section 5-616 (A)
	Utility substation, distribution	P	o Section 5-616 (B)
	Utility transmission lines, overhead	S	
COMMERCIAL USES			
Conference and Training Centers	Corporate training centers	S	
	Conference and training centers	S	
	Rural agricultural corporate retreat	P	o Section 5-619
	Rural Resort	P	o Section 5-601 (D).
	Rural Retreat	P	o Section 5-601 (D).
Food and Beverage	Teahouses and coffeehouses (NEW)	S	
	Restaurant	S	
Office			
	Office, adaptive reuse of farm structure	P	
	Office, small	S	
	Educational or research facilities use related to the agriculture, horticulture and animal husbandry uses in the district (NEW)	S	
Recreation and Entertainment			

AR-1 AGRICULTURAL RURAL -1 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Camp, day and boarding, with 15 or fewer campers	P	
	Camp, day and boarding with more than 15 campers	S	
	Campground	S	.
	Cross-country ski business (and skating) (NEW)	P	
	Golf course	S	
	Golf driving range, unlighted	P	
	Outdoor amphitheater	S	
Retail Sales and Service	Antique shop (NEW)	S	
	Art gallery or art studio (NEW)	S	
	Auction house (NEW)	S	
	Convenience store, with accessory pumps	S	
	Country store (NEW)	S	
	Craft shop (NEW)	S	
	Flea Market (NEW)	S	
	Home service establishment	S	
Visitor Accommodation	Bed and breakfast home stay	P	o Section 5-601 (A)
	Guest house	P	o Section 5-612.
	Host home	P	
	Bed and breakfast inn	P	o Section 5-601 (B)
	Country inn	P	o Section 5-601 (C)

AR-1 AGRICULTURAL RURAL –1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-1 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Guest farm or ranch leasing 4 to 20 rooms	P	
INDUSTRIAL USES			
Manufacturing and production	Bottling of spring or well water (NEW)	S	
Telecommunication Facilities	Radio and/or television tower	P	
	Telecommunications antenna	P	Section 5-618 (A)
	Telecommunications monopole	P	Section 5-618 (B) (1)
	Telecommunications monopole	S	Section 5-618 (B)(2)
	Telecommunications transmission tower	S	Section 5-618 (C)(2)
Waste-related uses			
	Yard waste composting	S	

(c) *Additional Regulations for Specific Uses (Performance Standards)*

One of the important parts of the structure and interrelationship of the uses proposed in the AR-1 district is the use of performance standards to address potential external impacts, as well as to ensure the maintenance and preservation of the agricultural and rural character of the area (See Land Use Pattern and Design Strategy Policy 6; Rural Economy Policy 4). The types of potential impacts identified in the *Revised General Plan* that might be considered in evaluating these external impacts include traffic, intensity of the use, scale, bulk and related site design features. In the drafting of the AR-1 (and AR-2) district regulations, these performance standards will be developed for certain uses and placed in Section 5-600 of the Zoning Ordinance, along with the similar regulations that already exist for such uses (e.g., the standards for farm markets (Section 5-603)).

The Clarion team and the County need public input on (1) the specific uses in the AR-1 district for which these special regulations should be drafted, and (2) what potential impacts should be considered for that particular use or group of uses. Based on our experience in other jurisdictions and discussions with staff, the following factors might be considered:

- **Access and traffic impact;**

- Location of the use on the land (setbacks);
- The size/bulk of the use in relation to other uses (or lot coverage);
- Impact on rural character (height/visibility, etc.);
- Environmental impacts (other than conservation design, such as noise and lighting);
- Whether a product is made or produced on the site;
- Hours of operation;
- The proximity of the use to relevant environmental resources; and
- The number of employees at the site.

For example, performance standards might be drafted for Agricultural Business and Support Services uses on the site of an on-going agricultural operation, such as a farm machine repair business established by a farmer on site to supplement his/her income. The type of standards that could be considered for these uses, based on the framework provided above, include:

- **Access and traffic impact.**
 - **Access.** To ensure there is adequate access, the applicant might be required to demonstrate direct access to a public road if the business employs more than two persons. If the business employs more than 10 persons, direct access might be required onto a collector road.
 - **Traffic impact.** To ensure traffic generated from an agricultural support business is consistent with the trip generation characteristics of an agricultural operation, there might be a requirement the business not generate over 100 average daily trips (ADT). If the business generates between 100–500 ADT, it might be reviewed as a special exception use instead of a permitted use. Agricultural support businesses generating more than a certain level of traffic (e.g., 800 trips a day) might not be allowed. The traffic standard might also be based on the size (acreage of the existing agricultural activity).
 - **Use of heavy equipment.** Additionally, limitations might need to be placed on the storage and use of heavy equipment.

- **Location of the use on the land (setbacks):** To reduce visibility, accessory buildings 2,000 square feet or less might be required to be set back from all lot lines by 100 feet, and if possible, located within existing structures. Accessory buildings larger than 2,000 square feet might be required to be setback a minimum of 300 feet from all lot lines. Parking lots might be screened and storage yards might be required to be set back at least as far from the lot lines as the accessory buildings.
- **The size/bulk of the use in relation to other uses (or lot coverage):** To ensure the location of the agricultural support business does not adversely affect the general open character of the AR-1 district, the activity might be required to locate on a parcel of land at least 5 acres in size.

Also, to ensure the size of the agricultural support business is compatible with the character and scale of the existing building(s) of the agricultural operation, limits might be placed on the size of the accessory building(s) used by the support business. For example, the existing standards for small businesses (Section 5-614, Zoning Ordinance) might be applied, with some modifications.¹¹

Lot Size	Maximum Size of Accessory Buildings (Square Feet)
5 acres, but < 10 acres	2,500 square feet
10 acres or greater	5,000 square feet for the first 10 acres. An additional 1,000 square feet for each additional 10 acres, not to exceed 15,000 square foot maximum.

Limitations might also be placed on the size of storage yards, again applying the small business standards for storage yards.

Lot Size	Size of Storage Yards
5 acres, but < 10 acres	2,500
10 or greater	5,000 square feet for the first 10 acres. An additional 1,000 square feet for each additional 10 acres, not to exceed 15,000 square foot maximum.

¹¹ It must be noted, however, that in no instance can the height or area of an accessory building exceed that of the principal use. For example, a proposed 2,500 square foot building 35 feet in height is not considered accessory to a principal use that is 2,000 square feet in area and 12 feet in height.

Storage yards might also be required to be screened with a year round visual screening 8 feet in height. All support businesses and equipment would be required to be stored within the accessory building or storage yard.

- **Height/Visibility/Compatibility.**

- **Height.** The height of the accessory building would be required not to exceed 35 feet.
- **Visibility/ Compatibility.** There could be a requirement that the accessory structure be compatible in terms of mass, scale and design with the existing buildings on the site, and that all large parking and vehicle areas be screened from the view of public roads. There might be a requirement limiting all support businesses on the site to one sign that does not exceed 16 square feet in area.

- **Environmental impacts (other than conservation design).**

- **Lighting.** Lighting for the use might be required to be no greater than 25 feet in height, with full cut-offs and no indirect lighting of buildings.
- **Noise.** There might be a requirement that the use not generate beyond a certain decibel level of noise.

- **Hours of operation.** The hours of operation for the support business might be required to be limited to between 6 am and 6 pm, unless the landowner can demonstrate that longer or different hours of operation would not have a deleterious impact on surrounding property owners and land uses.

- **Multiple Business Support Uses.** Landowners might be allowed to have multiple support businesses on a site, as long as the external trip generation rates are not exceeded, and the area of the accessory buildings and storage area(s), in total, do not exceed the maximums for accessory buildings and storage yards outlined above.

(d) *Expedited Special Exception Review*

Rural Economy Policy 7 states:

The County will prepare an expedited special-exception process at reduced costs for certain uses in the Rural Policy Area, if feasible (*Revised General Plan* at 7-8).

This policy was adopted, in part, because the time, expense and uncertainty of the special exception process in the County is a disincentive to the development of rural economy uses.

The general thrust of this policy direction is to develop procedures in the regulatory system to expedite the development review process for rural economy uses. As is discussed in Section II.D. 2(vi), recommended changes in the new AR-1 district make substantial strides in achieving this overarching objective by treating many of the rural economy uses as permitted, subject to performance standards (versus as special exceptions). This means they are by-right uses that can be approved without a public hearing.

However, for those rural economy or related uses that continue only as special exceptions, there are several options available for expediting special exception review.

Under Virginia law, the County is not required to include the Planning Commission as an advisory body in the review of special exceptions. Consequently, one option is to distinguish between “minor” and “major” special exceptions. Rural economy uses could be treated as “minor” special exceptions, with Board of Supervisors review, only.

Under existing special exception review, an applicant is subject to numerous review standards (Section 6-1310, Zoning Ordinance). Another option to expedite the review process for rural economy uses subject to performance standards is to only require the applicant to comply with the performance standards (versus all the special exception review standards). Experience teaches that well-crafted performance standards require applicants to address and mitigate relevant external impacts that might occur from a project, obviating the need for further regulation.

Another option is for the County to appoint an ombudsman who works and assists applicants with the special exception process. This person is generally a planning/zoning professional hired by the County. He/she is available to work with landowners in the rural area of the County on a voluntary basis – to answer questions about the land development regulations, educate them about the development process generally, and assist potential special exception applicants in the preparation of applications. This concept is employed by several local governments in western states – and seems to work fairly well, as well as create some degree of good will between the local government and rural landowners.

A final option is an in-house permit expeditor. This is a professional who does not prepare the application, but can answer questions about standards and review processes, and “bird-dogs” the application through the process to ensure there are no unexpected delays.

With these possibilities in mind, the County has multiple options to expedite special exception review for rural economy uses. They include:

- Establish a two-tiered special exception review process – “major” and “minor.” Rural economy uses are “minor” special exceptions. All other special exceptions are “major.” “Minor” special exceptions are subject to review and decision by the Board of Supervisors, only. “Major” special exceptions are treated like special exceptions today -- they are reviewed by the Planning Commission and Board of Supervisors.
- Establish that rural economy uses subject to performance standards are only required to comply with the performance standards during special exception review, not additional review standards applicable to all other special exceptions.
- Appoint a rural economy ombudsman – a professional staff member to educate and assist landowners in the rural area of the County with special exception applications.
- Appoint an in-house permit expeditor who “bird-dogs” the application through the process to ensure there are no unexpected delays.

During the review of this report, the County and public can provide directions about which options are most appropriate.

(iv) Special Events

There are a number of special events that occur each year in the rural area, usually revolving around the relationship between agricultural activities and tourism. They include fairs, craft shows, art shows, weddings, winery events, civil war enactments, equestrian shows and events, festivals, rodeos, corporate receptions, corn mazes, and other related agritainment. The County wants to encourage these events, since they are an important aspect of the tourism industry. At the same time, however, there is a need to ensure the appropriate external impacts that occur from special event uses are adequately evaluated and mitigated. To address these concerns, a special event permit will be established and incorporated into the County’s existing temporary use permit process (Section 5-500, Zoning Ordinance).

The permit process will apply County-wide to all special events held on private property and which reasonably may be expected to attract more than a specified number of persons at any one time, say 100. Certain events and activities will be exempt. They include:

- Any special events or activities occurring within, or upon the grounds of a private residence or farm, as long as it does not attract over the specified number of persons, say 100;
- Any event officially sponsored by the County or the state;
- Any organized activities on sites typically intended and used for such activities, such as sporting events and tournaments at golf courses or playing fields; wedding services at reception halls or similar facilities; funeral services

at funeral homes or cemeteries; and services, weddings, and funerals conducted at places of worship.

- Exemptions will also be provided for special exception uses that have received special event approval as part of their special exception approval process.

The County will have authority to deny a temporary use permit for a special event if the proposed special event creates an unreasonable risk that harm may occur to property or persons; it may cause travel hazards or congestion; the location cannot reasonably accommodate the event; or it creates additional police, fire, trash removal, maintenance, or other public services demands that cannot be mitigated.

In the approval of a temporary use permit for a special event, the County will be given authority to impose conditions as may be necessary to minimize adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed special event use. For example, the County will be authorized to require temporary parking facilities or require sanitary facilities and temporary medical facilities if the farm being used for a Civil War re-enactment involving 1,000 persons has minimal parking, toilet facilities, and is a distance from medical facilities.¹² Based on experience in the County on special events, each parcel of land or development will be limited to 10 special events a year. Each special event shall be limited to a maximum duration of time, even though the regulation will provide for extensions of these limits upon written application and a finding that there will be no substantial adverse impact on surrounding property, public facilities and services.

Note: Because coordination is needed among the public safety agencies, the health department and other agencies in special events review, it might be more appropriate to include the special event permit in the Codified Ordinance instead of the zoning ordinance. If it is placed in the Codified Ordinance, it should be referenced in the zoning ordinance.

(v) AR-1 Lot and Building Requirements

This section includes development standards regarding lot size, lot dimensions, required yards and building height for traditional development in the AR-1 district. The relevant lot and building requirements for the residential cluster option are located in this next section of the regulation. It should be noted the relevant performance standards for the different rural

¹² Other types of conditions that might be imposed include requiring buffers, security facilities, and waste disposal measures; requiring an alternative location or date for the proposed temporary use; modifying or eliminating certain proposed activities; limiting operating hours and days; limiting the duration of the temporary use; and requiring a performance bond or other financial guarantee to ensure that the property will be restored to its former condition.

economy uses might vary these requirements. Road standards for development in the AR-1 district are established in the Facilities Standards Manual.

The lot size, lot dimensions, required yards and building height standards established in this section will be set down in a table. The table will look somewhat like the table below, which is used for illustrative purposes only. As with the use table, the Clarion team and County invite public input as to the appropriate lot and building standards for the AR-1 district as the drafting process continues.

GENERAL LOT REQUIREMENTS	
Minimum Lot Size	20 acres
Minimum Lot Width	<ul style="list-style-type: none"> • 300 feet for lots fronting on Class I roads • 200 feet for lots fronting on Class II or III roads • 250 feet for lots fronting on private access easement
Minimum Yards	No building shall be located closer than: <ul style="list-style-type: none"> • 100 feet from the ROW of any arterial road • 75 feet from the ROW of a collector road • 35 feet from any other road right-of-way, private access easement or prescriptive easement
Lot Length/Width Ratio	7:1 maximum
Building Height	35 feet maximum, exclusive of buildings used for agricultural purposes

(vi) *AR-1 Residential Cluster Option*

One of the key elements of the AR-1 district is a residential cluster option that allows a landowner to cluster residential development at a gross density of 1 unit per 10 acres. The residential cluster option specifically implements Rural Residential Policies Nos. 11 and 13 in the *Revised General Plan* that state:

PLAN POLICIES RELEVANT TO CLUSTER OPTION
Rural Residential Policies (Plan at 7-14 to 7-15)
<p>11. Rural Cluster developments allow landowners to group lots in a traditional rural community pattern while preserving the majority of the land base for rural economy uses. A Rural Cluster is the grouping of building units on small lots with the largest part of the site remaining in open land. There is no minimum lot size for the clustered lots. The cluster is both visual and spatial with the dwellings scaled and sited to maintain coherent relationships to each other and the surrounding landscape. The residual open land accounts for the overall lower density of the site and will serve to accommodate rural economy uses and preserve rural character.</p>
<p>13. In locating the open space required in the conservation design of a Rural Cluster, the following site features will be considered to ensure that the land kept in open space provides for appropriate rural economy uses:</p> <ul style="list-style-type: none"> a. Percent of open space area that is made up of prime agricultural soils; b. Size of the area that is usable for agricultural production; c. Contiguity of open space area to other designated open space or agricultural land;

- | | |
|----|---------------------------------------------------------------------------------------------------------|
| d. | Relationship of development of adjacent properties on the agricultural activity on the open space area; |
| e. | Relationship of non-agricultural use of the open space area on adjacent agricultural uses; and |
| f. | Unique site features and Green Infrastructure implementation |

The residential cluster option is linked with and integrated into the conservation design process outlined in Section IV. The actual integration of the conservation design principles and the residential cluster is proposed to occur during the subdivision review process.

This section of the AR-1 district regulation establishes the specific parameters for the residential cluster option. Generally it requires the following: The cluster option is only exercised by a landowner who proposes to develop single-family detached units on a parcel of land in the AR-1 or AR-2 districts. In order to initiate the cluster option in the AR-1 district, the landowner must have a minimum of 40 acres of land.

There is no minimum lot size requirement for the resulting cluster lots which will also be subject to lesser setback and other dimensional standards. The maximum lot size of any of the clustered parcels shall be no greater than 3 acres. Seventy percent (70%) of the site is placed in open lands.

To the extent possible given the size of the parcel, lots shall be located in clusters of from 5-25 lots. However, multiple lot clusters may be located on a site to comply with conservation design principles or to allow for substantial contiguous open space lands as long as there are coherent relationships between the lots within the cluster and the surrounding landscape.

The regulations encourage the use of communal wastewater treatment systems, but allow the use of individual septic systems and drain fields to be placed off-site, on open space lands.

The analysis required to comply with the conservation design principles is undertaken in conjunction with the proposed site layout under the residential cluster option, at the time of the review of a preliminary plat for subdivision (See discussion in Section IV). As discussed above, 70% of the site is set aside as residual open space lands. Generally, all primary conservation area lands on the site are protected and are included as part of the residual open space lands. One hundred percent (100%) of the primary conservation area lands are credited against the open space set-aside. The balance of the open space lands consists of secondary conservation area lands and other lands. They are available for rural economy uses.

Basic agricultural activities like farms and related agricultural activities are allowed in the open land areas on secondary conservation lands and other lands, along with related rural economy uses that are directly associated with the agricultural activity (this includes the permitted uses in the agricultural, horticultural and animal husbandry use categories and the permitted uses in the agriculture support and services category – since the use is directly associated with on-going agricultural activity. The location of these uses shall minimize their impact on any secondary conservation features, to the maximum extent practicable. In

considering priorities for secondary conservation areas consideration is given to the contiguity of the open space area to other designated open space or agricultural land; the relationship of this land to adjacent properties; and the relationship of non-agricultural uses of the open space area on adjacent agricultural uses.

The uses allowed in the open space area are also required to comply with any Additional Regulations for Specific Uses included in Section 5-600.

Example of Residential Cluster Option in AR-1 district

As a hypothetical example of how the residential cluster option works, assume a 160-acre development parcel in the AR-1 district. The zoning allows 8 houses to be built on the property (1 unit/20 acres) under the conventional arrangement, or 16 units if the residential cluster development option is pursued. If the landowner decides to pursue the residential cluster option, the open space set aside requirement is 112 acres (160 x 0.70). The applicant and County staff as part of the conservation design process first identify the primary conservation resources on the site that are required to be protected (e.g., a stream corridor or steep slopes). Assume that these primary conservation areas amount to 60 acres. In the AR-1 district, the applicant would get a 100% “credit” towards the open space requirement for protecting these primary resources—in this case 60 acres. This leaves 52 acres of the open space set aside requirement still to be fulfilled, and a total of 48 acres available for development. The 52 acres of open space requirement remaining is configured on the site based on the remaining secondary conservation resources—wildlife habitat, prime agricultural lands, etc. Rural economy uses are allowed outside the primary conservation lands, on the secondary conservation lands and other lands. The location of these uses are required to minimize their impact on any secondary conservation areas, to the extent practicable.

The resulting property configuration and use allocation looks like this:

Developable area for residential lots—48 acres for 16 dwelling units (underlying density is, in effect, transferred from the conservation areas and open space on a full 1:1 basis).

Primary conservation area—60 acres, of which 60 acres is credited towards the open space requirement.

Other open space set aside—52 acres (in addition to the 60 acre primary conservation area set aside)

Rural economic uses are allowed on the secondary conservation and other lands. The location of these uses minimize their impact on any secondary conservation areas, to the extent practicable.

The proposed structure and sections of the residential cluster option are outlined below, and then discussed.

SUMMARY OF CONTENTS:

SEC 2-105 RESIDENTIAL CLUSTER OPTION

- (A) Purpose***
- (B) Density and Lot Requirements***
- (C) Cluster Elements and Siting Standards***
- (D) General Siting Requirements/Conservation Design***
- (E) Allowed Uses***
- (G) Cluster Development Relationships***
- (H) Utility Requirements***
- (I) Other Special Development Requirements***

(a) Purpose

This section identifies the goals, purpose and intent of the residential cluster option. The general goal of the *Revised General Plan* with respect to the residential cluster option is to ensure the form and character of residential development in the Rural Policy Area better conforms to the character of the rural economy uses and open character of the area.

The intent and purpose of the residential cluster option is to provide a cluster option in the AR-1 and AR-2 districts for residential single-family detached development that addresses conservation design standards, accommodates rural economy uses and ensures the form and character of residential development is consistent with the open character of the rural economy uses.

(b) Density and Lot Requirements

This section will establish that to initiate the cluster option in the AR-1 district, the landowner must have at least 40 acres of land. (To initiate the cluster option in the AR-2 district, the landowner must have at least 100 acres of land.)

There is no minimum lot size for a residential lot in a residential cluster. The maximum lot size of any of the clustered residential lots is no greater than 3 acres.

To the extent possible given the size of the parcel, the minimum cluster is 5-25 lots. However, multiple lot clusters may be located on a site to provide flexibility to comply with conservation design principles or to allow for substantial contiguous open space lands, as long as there are coherent relationships between the lots within the cluster and the surrounding landscape. To the extent possible given the size of the parcel, there must be minimum clusters of up to 5 residential lots (e.g., on a 40 acre parcel there can only be a single cluster of 4 lots; on a 90 acre cluster there may be two separate clusters, one with 5 lots and the other with 4 lots, if it is necessary to establish contiguous open space).

A table establishing these general parameters is proposed to be included in the section.

District	Gross Density Under Cluster Option	Cluster Size	Min. Size Lot	Max. Size Lot	Minimum Open Lands
AR-1	1 dwelling unit/10 acres	Minimum:5 Maximum:25 Multiple clusters after 5 lots if can demonstrate necessary to allow for contiguous open lands or to protect primary/secondary conservation areas.	None	3 acres	70%

(c) Cluster Elements and Siting Standards

This section spells out that the two component parts of the residential cluster option are the clustered area of residential lots and the open space lands outside the cluster. It begins with a macro-level description of the general siting requirements for the residential clustered subdivision in conjunction with the conservation design standards. This is followed by specific standards for the development of the clustered lots, and the parameters for use and development of the open lands.

(d) General Siting Requirements/Conservation Design

This section establishes that the actual site layout of the residential cluster lots occurs simultaneously with the analysis required to be undertaken to comply with the conservation design principles outlined in Section IV, during the review of a preliminary plat for subdivision. The section also establishes the standards for application of the conservation design process in the residential cluster option.

The general standards require:

- The open space lands consist of a minimum of 70% of the site.
- All primary conservation area lands be protected consistent with the environmental overlay districts and environmental resource protection regulations and included in the open space lands. One hundred percent (100%) of the primary conservation area lands protected pursuant to those regulations are credited against the open space set-aside.

- The balance of the open space lands consist of secondary conservation area lands and other lands.
- Basic agricultural activities like farms and related agricultural activities are allowed in the open land areas on secondary conservation lands and other lands, along with related rural economy uses that are directly associated with the agricultural activity (This includes the permitted uses in the agricultural, horticultural and animal husbandry use categories, and the permitted uses in the in the agriculture support and services category that are directly associated with on-going agricultural activities, on-site).
- The residential cluster is located outside of the open space lands area.

(e) *Allowed Uses*

Basic agricultural activities like farms and related agricultural activities are allowed in the open land areas on secondary conservation lands and other lands, along with related rural economy uses that are directly associated with the agricultural activity (This includes the permitted uses in the agricultural, horticultural and animal husbandry use categories, and the permitted uses in the agriculture support and services that are directly associated with an on-going agricultural activity, on-site). These uses are to minimize their impact on any secondary conservation features, to the maximum extent practicable.

Additionally, passive open space, septic systems, communal waste disposal systems, water supply systems, storm water management systems and utility easements may be placed in the open space lands outside of the primary conservation areas.

A table is proposed to be included in this section to outline these rules.



Vineyard in western Loudoun County

Use	Residential Cluster	Open Space Lands	Conditions
Permitted Agricultural, Horticulture and Animal Husbandry uses		X	Shall not be located on protected primary conservation area lands. May be located on secondary conservation area lands. The location of these uses shall minimize their impact on any secondary conservation uses, to the maximum extent practicable. May be located on other lands in open space set-aside.
Permitted Agriculture Support and Services directly associated with on-going agricultural activity, on-site		X	Shall not be located on protected primary conservation area lands. May be located on secondary conservation area lands. The location of these uses shall minimize their impact on any secondary conservation uses, to maximum extent practicable. May be located on other lands in open space set-aside area.
Accessory uses and structures	X	X	In open space lands, accessory to permitted uses allowed.
Dwelling unit, accessory	X		
Dwelling, single family detached	X		
Easements and improvements for drainage, access, communal water and wastewater systems, sewer or water lines, or other public purposes	X	X	
Home occupation	X	X	In open space lands, in association with uses permitted.
Passive open space or passive recreation, including but not limited to trails, picnic areas, community gardens	X	X	
Communal wastewater disposal systems, septic systems	X	X	Shall not be located on primary conservation area lands.
Communal water systems, wells, other water supply systems	X	X	Shall not be located on primary conservation area lands.

(f) *Cluster Development Relationships*

This section includes requirements for:

- The siting of residential clusters to make them blend in with the landscape;
- The relationship of the residential clusters to the open lands and other development clusters; and
- The qualitative aspects of open space in a cluster development (like perimeter open space widths).

(g) *Utility Requirements*

This section identifies the type of water and wastewater services that are allowed to serve residential development under the cluster option. For water, this includes individual wells (on or off each lot) or communal water systems.

For wastewater, the section permits individual or communal disposal systems. Both the individual and communal systems are allowed to locate off the individual lot, in a common area.

(h) *Other Special Development Requirements*

- Fire Protection
- Parking
- Homeowner's Association and Responsibilities
- Notes on Record Plats and Deeds

This section establishes any other requirements for improvements within a residential cluster option, such as fire protection and parking. It also includes a subsection requiring, where appropriate, creation of a Homeowner's Association (HOA), and spells out its responsibilities related to open space, roads and other private property improvements. The section also requires record plats and deeds for residential cluster subdivisions to include a statement that agricultural operations enjoy the protection of the Right to Farm Act (Va. Code Section 3.1-22.28 et seq.) on open space lands.

Finally, it is noted that these provisions will also require some revisions to the Facilities Standards Manual:

(vii) *Other Revisions Related to Cluster Option*

In developing this cluster option provision (as well as the cluster option for the A-2 district), the following provisions will be removed from the regulations: rural hamlet (5-702); countryside hamlet (5-703); and the low density development options (5-701). Additionally, the definition of cluster development will need to be revised.

(viii) *General Clean-up Revisions*

The reference to the new AR-1 and AR-2 districts in the other regulatory provisions will need to be modified. These include references to the districts in small business (5-614), hardship lots (5-705), regulations for specific uses (5-600), sign regulations (5-1200), tree planting and replacement (5-1300), buffering and screening (5-1400), and performance standards (5-1500).

3) AR-2, Rural District

(a) Plan Policy Direction

The AR-2 district implements *Revised General Plan* policies for the southern tier of the Rural Policy Area. The key direction from the Plan policies for both the northern and southern tiers are similar, so the discussion of Plan policies for the AR-1 district is relevant to the AR-2 district.

(b) Proposed Approach

Structurally, the provisions in the AR-2 district are the same as the provisions in the AR-1 district. However, because there are differences in the existing land use patterns and character of the rural uses between the southern and northern tiers, there are some differences in the substance of the regulations -- primarily involving the density of residential development (1 unit per 50 acres versus 1 unit per 20 acres) and the density allowed for the residential cluster option provision (1 unit per 20 acres versus 1 unit per 10 acres).

The major sections in the AR-2 district designed to implement the *Revised General Plan* policies are outlined below, then discussed in the following subsections. As with the AR-1 district, one of the main purposes of the district is to support the primary use of land for "rural economy" uses, with residential uses allowed secondarily, in a form and context that is consistent with the general open and rural character of the rural economy uses. To the greatest extent possible, the rural economy uses are to be allowed as permitted uses, subject to performance standards versus being allowed as special exception uses. To protect Green Infrastructure, development in the district is required to comply with conservation design principles.

SUMMARY OF CONTENTS

SEC. 2-200 AR-2 AGRICULTURAL RURAL – 2 DISTRICT

Sec. 2-201 Purpose

Sec. 2-202 Applicability

Sec. 2-203 Allowed Uses

Sec. 2-204 Lot and Building Requirements

Sec. 2-205 Residential Cluster Option

(i) *Purpose*

This section establishes the purpose and intent of the new AR-2 district. It includes language that reflects the goals, purpose and intent for development of the southern tier of the Rural Policy Area. Those goals and the intent and purpose are similar to that identified in the AR-1 district.

(ii) *Applicability*

This section of the AR-2 district spells out that except for the Existing Rural Villages, the existing A-10 district lands subject to rezoning proffers and other “vested” lands, the AR-2 district applies to all lands in the southern tier of the Rural Policy Area as identified in the *Revised General Plan*.

(iii) *Allowed Uses*

The key policy directions of the *Revised General Plan* for allowed uses in the AR-2 district are the same as those outlined for the AR-1 district. As with the AR-1 district, the AR-2 district establishes a framework in this section for organizing and then allowing either as by-right permitted uses or special exception uses a broad range of rural economy and related uses. As in the AR-1 district, the emphasis is on allowing rural economy uses by right, subject to performance standards, and ensuring that residential development is designed and located in ways that are consistent with the rural economy uses.

The following table of uses proposed for this section replaces the long textual list of uses in the existing district regulations. It is a starting point for discussion purposes about the proposed uses in the AR-2 district. The initial thinking is that the uses in the AR-2 and AR-1 districts should be similar. The performance standards for various uses, however, may differ (for example, the traffic impact thresholds might differ, the setbacks for lot lines might be greater in the AR-2 district for business support uses, and mass and scale requirements might vary). Additional public input is needed about which of these uses is appropriate, whether additional uses need to be added, and what additional regulations are necessary, before a final list of uses is developed.

The table identifies each use category and use type under each of the use classifications. It next identifies whether the use is a permitted or special exception use. Finally, and after performance standards are prepared for the appropriate uses in the drafting stage of the project (See discussion in Section II.D. 2(d)), they will be referenced in the final column of the table and included in Section 5-600 of the zoning ordinance.

AR-2 AGRICULTURAL RURAL -2 DISTRICT: TABLE OF ALLOWED USES			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-2 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
AGRICULTURAL USES			

AR-2 AGRICULTURAL RURAL –2 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-2 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Agriculture (agronomy, aquaculture, biotechnical agriculture (including educational park for biotechnical agriculture, or a demonstration farm) forestry, fishery and honey production)	General Use Category	P	
Horticulture (production of Christmas trees, field grown crops, specialty crops, flowers, fruit, nursery stock, nuts, ornamental plants, produce or fruit grown from genetically engineered organisms, sod, vegetables and wine grapes)	General Use Category	P	
Animal husbandry (raising and production of bison, cattle (beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep)	General Use Category	P	
	Equestrian facilities	P	
Agriculture Support and Services Related to Basic Agriculture, Horticulture and Animal Husbandry			
	Agriculture Support and Services directly associated with on-going agricultural activity, on-site (both the production and sale of agricultural products), (agricultural processing, animal care business, custom operators (haymaking, brush hogging, crop storage, hauling, fencing, barn construction), direct market business for sale of products produced on-site, equestrian facilities, farm structures (adaptive reuse), farm co-ops, farm tours, farm market, farm machinery repair, feedlot, nursery (commercial), pet farms, products combining recreation with consumption of agricultural products, portable sawmill, stables, wayside stand, wetlands mitigation bank, winery (total structures less than 20,000 square feet).	P	
	Small business uses	S	○ Section 5-614

AR-2 AGRICULTURAL RURAL -2 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-2 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Agriculture Support and Services not directly associated with agricultural activity (animal care business (NEW); custom operators (haymaking, brush hogging, crop storage, hauling, fencing, barn construction) (NEW); equestrian facility; equestrian facility and infrastructure, public (horse trail network, show ring, cross country course, etc.) (NEW); farm machinery repair (NEW); mill feed and farm supply center (NEW); stable, neighborhood, on lots of 25 acres or more, or frontage on state maintained road; stable, private)	P	
	Agricultural research facility (NEW);	S	
	Farm machinery sales, rental and service (NEW)	P	o Section 5-615
	Nursery, commercial	P	o Section 5-605
Animal Services	Animal hospital	S	
	Kennel	P	o Section 5-606
	Kennel, indoor	P	o Section 5-606
	Veterinary service	P	
RESIDENTIAL USES			
Household Living	Accessory apartment (defined as accessory dwellings in Zoning Ordinance)	P	o Section 5-613
	Caretaker's residence (NEW)	P	.
	Dwelling, single-family detached, including manufactured housing	P	o May use Rural Cluster option
	Guest house (accessory use)		o Section 6-612
	Home occupation	P	o Section 5-400
	Portable dwelling/trailer during construction of primary residence (NEW)	P	o Section 5-500

AR-2 AGRICULTURAL RURAL –2 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	AR-2 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Group Living	Co-housing	S	
	Congregate housing facility	S	
	Dormitory, seasonal labor	S	
	Rooming house	P	
	Tenant dwelling	P	o Section 5-602 (A) and (C)
	Tenant dwelling, multiple family	P	
	Tenant dwelling, seasonal labor	S	o Section 5-602 (C)
PUBLIC AND INSTITUTIONAL USES			
Aviation	Airport/landing strip (NEW)	S	
Day Care Facilities	Child care home	P	o Section 5-609 (A)
	Child or adult day care center	S	o Section 5-609 (B)
Cultural and Government Facilities	Agricultural Cultural Center	S	
	Aviary (NEW)	P	
	Community center	S	
	Fairgrounds	S	
	Structures or uses primarily for federal, state, County, or local government purposes, not otherwise listed	S	
Education	School, private elementary or middle,	S	
	School (elementary, middle, or high; public or private) (Not defined, in use list)	S	
	Vocational school	S	
Health Services	Office, medical	P	

AR-2 AGRICULTURAL RURAL –2 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	AR-2 DISTRICT	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Medical care facility, outpatient	P	
Park and Open Space	Arboretum (NEW)	P	
	Botanical garden or nature study area (NEW)	P	
	Cemetery, mausoleum or memorial park (not defined, in use list)	S	
	Crematorium	S	
	Horse trail networks	P	
	Nature preserve, such as but not limited to, wildlife sanctuary, conservation areas, and game preserve (NEW)	P	
	Trail or path for bicycling or walking (NEW)	P	
	Primary and secondary conservation areas	P	
	Public or private community or regional park	P	
	Public or private playground, or neighborhood park	P	
Religious Assembly	Church, synagogue or temple	S	
Public Safety	Fire and/or rescue station	P	
	Police station or substation	P	
Utility (Communal water and wastewater systems; sewer pumping station (NEW); sewage treatment plant and pumping station; water pumping station; water storage tank; water treatment plant; utility transmission lines, underground)	General Use Category	P	
	Recycling drop-off collection center, small	P	o Section 5-607
	Utility substation, transmission	P	o Section 5-616 (A)
	Utility substation, distribution	P	o Section 5-616 (B)
	Utility transmission lines, overhead	S	

COMMERCIAL USES			
Conference and Training Centers	Corporate training centers	S	
	Conference and training centers	S	
	Rural agricultural corporate retreat	P	o Section 5-619
	Rural Resort	P	o Section 5-601 (D).
	Rural Retreat	P	o Section 5-601 (D).
Food and Beverage	Teahouses and coffeehouses (NEW)	S	
	Restaurant, carry out only	S	
Office			
	Office, adaptive reuse of farm structure	P	
	Office, small	S	
	Educational or research facilities use related to the agriculture, horticulture and animal husbandry uses in the district (NEW)	S	
Recreation and Entertainment			
	Camp, day and boarding, with 15 or fewer campers	P	
	Camp, day and boarding with more than 15 campers	S	
	Campground	S	.
	Cross-country ski business (with skating) NEW)	P	
	Golf course	S	
	Golf driving range, unlighted	P	
	Outdoor amphitheater	S	
Retail Sales and Service	Antique shop (NEW)	S	
	Art gallery or art studio (NEW)	S	

	Auction house (NEW)	S	
	Convenience store, with accessory pumps	S	
	Country store (NEW)	S	
	Craft shop (NEW)	S	
	Flea Market (NEW)	S	
	Home service establishment	S	
	Retail construction establishment	S	
Visitor Accommodation	Bed and breakfast home stay	P	○ Section 5-601 (A)
	Guest house	P	○ Section 5-612.
	Host home (P	
	Bed and breakfast inn	P	○ Section 5-601 (B)
	Country inn	P	○ Section 5-601 (C)
	Guest farm or ranch leasing 4 to 20 rooms	P	
INDUSTRIAL USES			
Manufacturing and production	Bottling of spring or well water (NEW)	S	
Telecommunication Facilities	Radio and/or television tower	P	
	Telecommunications antenna	P	Section 5-618 (A)
	Telecommunications monopole	P	Section 5-618 (B) (1)
	Telecommunications monopole	S	Section 5-618 (B)(2)
	Telecommunications transmission tower	S	Section 5-618 (C)(2)
Waste-related uses			
	Yard waste composting	S	

(iv) *Lot and Building Requirements*

This section includes development standards regarding lot size, lot dimensions, required yards and building height for traditional development in the AR-2 district. The relevant lot and building requirements for the residential cluster option are located in the next section of the regulations establishing the rules for the cluster option. (The lots sizes and dimensional standards for the residential cluster option will be much lower than for conventional development in the AR-2 district.) Additionally, the relevant performance standards for the different rural economy uses might also vary these requirements. Road standards for development in the AR-1 district are established in the Facilities Standards Manual.

These general standards will be set down in a table. The table will look somewhat like the table below which is used for illustrative purposes only. As with the use table, the Clarion team and County expect public input on the appropriate lot and building standards for the AR-1 district as the drafting process continues.

STANDARD	
Minimum Lot Size	50 acres
Minimum Lot Width	<ul style="list-style-type: none">• 1,000 feet for lots fronting on Class I roads• 750 feet for lots fronting on Class II or III roads• 800 feet for lots fronting on private access easement
Minimum Yards	No building shall be located: <ul style="list-style-type: none">• 350 feet from the ROW of any arterial road• 250 feet from the ROW of a collector road• 100 feet from any other road right-of-way, private access easement or prescriptive easement
Lot Length/Width Ratio	7:1 maximum
Building Height	35 feet maximum, exclusive of buildings used for agricultural purposes

(v) *Residential Cluster Option*

As with the AR-1 district, the AR-2 district also offers the landowner an opportunity to cluster residential development through a residential cluster option. The gross density allowed under the cluster option is 1 unit per 20 acres.

This section of the AR-2 district regulation establishes the specific parameters for the residential cluster option, or a section will be drafted that is common to both the AR-1 and AR-2 districts. The structure and rules of the AR-2 cluster option are similar to those proposed for the AR-1 cluster option (See discussion in Section II.D. 2(vi)), with several exceptions, so please refer to that section for a detailed discussion of the option.

The differences between the AR-1 and AR-2 cluster option are that in the AR-2 option the landowner must have 100 acres of land to initiate the cluster. Eighty-five percent (85%) of the site is to be maintained in open space. The gross density under the cluster option is 1 unit per 20 acres.

Example of Residential Cluster Option in AR-2 district

As a hypothetical example of how the residential cluster option works, assume a 200-acre development parcel in the AR-2 district. The zoning allows 4 houses to be built on the property (1 unit/50 acres) under the conventional arrangement, or 10 units if the residential cluster option is pursued. If the landowner decides to pursue the option, the open space set aside requirement is 170 acres (200×0.85). The applicant and County staff as part of the conservation design process first identify the primary conservation resources on the site that are required to be protected (e.g., a stream corridor and steep slopes). Assume these primary conservation areas amount to 80 acres. In the AR-2 district the applicant receives a 100% credit towards the open space set-aside for protecting these primary resources -- in this case 80 acres. This leaves 90 acres of the open space requirement still to be fulfilled and a total of 30 acres available for development. The 90 acre open space requirement remaining is configured on the site based on the remaining secondary conservation resources—wildlife habitat, prime agricultural lands, etc. Rural economy uses are allowed outside the primary conservation lands, on the secondary conservation lands and other lands. The location of these uses should minimize their impact on any secondary conservation uses, to the extent practicable.

The resulting property configuration and use allocation looks like this:

Developable area for residential lots—30 acres for 10 dwelling units (underlying density is, in effect, transferred from the conservation areas and open space on a full 1:1 basis).

Primary conservation area—80 acres, of which 80 acres is credited towards the open space requirement.

Other open space set aside—90 acres (in addition to the 80 acre primary conservation area set aside).

Rural economic uses are allowed on the 90 acre secondary conservation area. The location of these uses should minimize impact on any secondary conservation areas, to the extent practicable.

4) Rural Village Conservation (RVC) Zoning District

(a) Background

As is discussed earlier in this section, 12 small villages (Existing Rural Villages) are located throughout the Rural Policy Area. Three are located in the southern tier (Aldie Mountain, Aldie and St. Louis) and 9 are located in the northern tier (Neersville, Loudoun Heights, Bluemont, Lincoln, Philomont, Paeonian Springs, Waterford, Taylorstown and Lucketts). They are designated as “Rural Villages” on the Planned Land Use Map (See Figure 5).

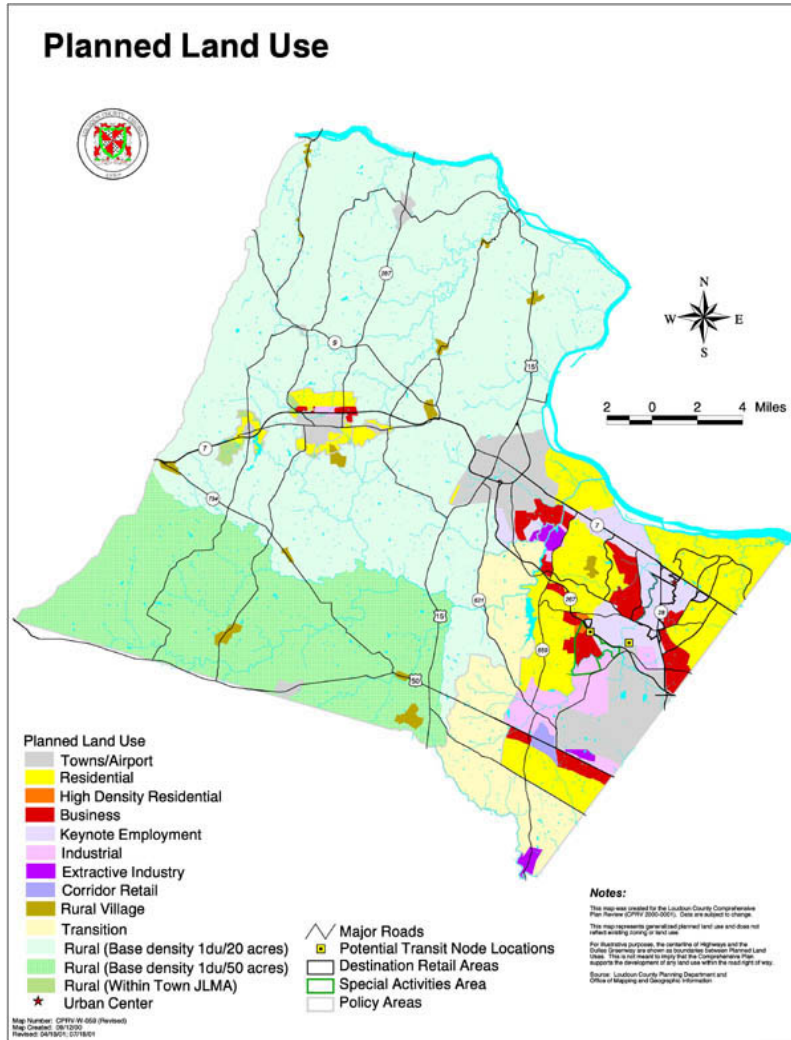


Figure 5: Location of Rural Villages

These 12 villages are small historic settlements that serve as social and economic centers in the Rural Policy Area. The Plan recognizes it is important to maintain and protect the viability and sense of place exhibited by these villages, as well as their traditional development patterns and uses because they:

- Support the rural economy uses by providing compact locations throughout the Rural Policy Area for

non-agriculturally-related commercial and service uses and general community serving uses;

- Support the tourism industry by providing compact locations for tourist accommodation and related service and retail uses; and
- Provide a sense of history and support the general rural character and traditions of the Rural Policy Area through their architectural styles and development form.

(b) Plan Policy Direction and Summary of Implementation Approach

The right hand column of the following table identifies the policy direction provided by the *Revised General Plan* for the implementation of land use policy for the Existing Rural Villages. The right hand column in the table summarizes the recommended implementation approach to these policies, which is then discussed in greater detail in the following sections.

SUMMARY OF PROPOSED IMPLEMENTATION OF PLAN POLICIES FOR EXISTING RURAL VILLAGES
CHAPTER 7: RURAL POLICY AREA

Existing Rural Village Areas

<p>1. The County recognizes the existing rural villages as important heritage resources that contribute to the rural economy, providing economic benefit to the County and encouraging tourism in a manner that does not conflict with or intrude on the villages' existing quality of life and will not adversely affect their rural character.</p>	<p>A new district, Rural Village Conservation District (RVC district), is proposed to be added as a new rural district in Article II: Rural District Regulations (See Appendix A: Outline of Revised Land Use Regulations). It, however, will not be applied to the villages until meetings and consultation with the Councils or other village groups. (In the interim, the existing RC-Rural Commercial zoning districts will be maintained in the villages, as well as the CR-1, CR-2, CR-3 and CR-4 districts).</p> <p>The RVC district allows for a mix of small-scale commercial, industrial and institutional development, along with more intense tourist accommodation uses and services, and a variety of residential housing types.</p> <p>To ensure the existing character of each village is maintained as infill and new development occurs, contextual compatibility and neighborhood development standards are required in the district.</p> <p>The contextual compatibility standards will override the general development standards for infill development, and require conformance with setback, yard and height requirements established by "average setbacks" and heights for all buildings on the same side of the street within a certain distance, or within the block face. Additionally, contextual compatibility requirements are proposed for sidewalks, where they exist.</p> <p>The neighborhood development standards reinforce the existing development patterns in the villages to the greatest extent practicable through street system/connectivity standards, requirements for variation of lot and building sizes, sidewalk standards, civic and open space standards, and standards for street trees and garage locations.</p> <p>The regulations provide a special exception option to allow either the County in Phase 2, or individual property owners in a fairly large area of a village to develop finely-grained development standards to better ensure the individual character of each village is recognized and maintained.</p>
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SUMMARY OF PROPOSED IMPLEMENTATION OF PLAN POLICIES FOR EXISTING RURAL VILLAGES
CHAPTER 7: RURAL POLICY AREA

Existing Rural Village Areas

<p>2. The County will allow compatible development to occur within those existing rural villages that have adequate public facilities, zoning, transportation facilities and land resources to accommodate growth.</p>	<p>As is discussed above, to ensure the existing character of each village is maintained as infill and new development occurs, and to ensure compatible development occurs, the RVC includes contextual compatibility and neighborhood development standards.</p>
<p>4. New development in and around Existing Rural Villages must be designed to be visually compatible in terms of street pattern, street design and building footprint and setbacks. Conventional, suburban forms are not appropriate in and contiguous to the Existing Rural Villages. Design guidelines, incentives and regulations to achieve compatible designs will be established and implemented by the County.</p>	<p>As is discussed above, to ensure the existing character of each village is maintained as infill and new development occurs, and to ensure compatible development occurs, the RVC district includes contextual compatibility and neighborhood development standards.</p> <p>Additionally, to provide a framework to allow either the County in Phase 2, or individual property owners in a fairly large area of a village to develop more refined and finely-grained development and design standards to better ensure the individual character of each village is recognized and maintained, the RVC district includes a special exception option that allows either the County or a group of property owners to initiate a request to modify the development standards for a portion of the RVC district, if it can be demonstrated that the development form is more consistent with the traditional development patterns of the village.</p>
<p>5. The County encourages a diverse range of dwelling unit types in Existing Rural Villages, including accessory apartments attached to single family dwellings or as second story uses in commercial structures. New units will be designed, sized and sited to ensure compatibility with the present scale and character of the existing village.</p>	<p>The uses allowed in the RVC district allow for a range of dwelling unit types, including accessory apartments attached to single family dwellings and apartments over commercial structures</p> <p>As is discussed above, to ensure the existing character of each village is maintained as infill and new development occurs, and to ensure compatible development occurs, the RVC district includes contextual compatibility and neighborhood development standards.</p>
<p>7. Large-scale commercial uses will not be allowed in Existing Rural Villages. The County encourages the location of small scale, convenience-sized commercial uses that meet local neighborhood needs on parcels with existing commercial zoning. New commercial uses will be compatible in scale to the surrounding buildings and related uses in the village.</p>	<p>The uses allowed in the RVC district allow for small scale commercial, industrial and institutional uses.</p> <p>The development of design standards to ensure compatibility with existing residential development will be addressed in Phase II of the project.</p>

SUMMARY OF PROPOSED IMPLEMENTATION OF PLAN POLICIES FOR EXISTING RURAL VILLAGES CHAPTER 7: RURAL POLICY AREA

Existing Rural Village Areas

<p>8. The County will convert existing RC zoned land in villages to a new village commercial district(s) which will be designed to better meet the needs of rural village residents and the commercial landowner as well. The new district(s) should ensure that the new commercial uses are compatible with existing village scale and character and allow local, neighborhood related commercial uses. The zoning regulations/requirements of this new commercial district will be devised in consultation with/inputs from the councils of some existing rural villages and citizen groups from the village and surrounding rural area.</p>	<p>See discussion on Existing Rural Villages Area Policy 1.</p>
<p>9. The County will allow small-scale industrial, commercial and institutional uses in Existing Rural Villages that are compatible with existing residential and agricultural land uses in and around the village and where existing zoning would permit such uses.</p>	<p>The uses allowed in the RVC district allow for small scale commercial, industrial and institutional uses.</p> <p>The development of design standards to ensure compatibility with existing residential development will be addressed in Phase II of the project.</p>
<p>10. Mining or extraction activities will be prohibited in or adjacent to Existing Rural Villages. Rezoning and special exceptions to permit resource extraction will not be approved in these areas.</p>	<p>The new RVC District does not allow mining or extraction activities as either a permitted or special exception use.</p> <p>A provision will also be included in the MR-HI and Quarry district that prohibits mining adjacent to the Existing Rural Villages.</p>
<p>12. New development will be designed, built and sited to be compatible with the scale, size, historic character and style of buildings of the village. This policy applies to all architectural and landscape elements of any new structures, including the proportions and design of facades, building heights, fenestration, materials, massing, structural systems, orientation, siting and yard layouts, relationship to adjacent buildings, landscaping, roof pitch and especially the relationship to the public street. The County's Historic District Guidelines establish principles and standards for achieving such compatibility.</p>	<p>See discussion on Existing Rural Village Area Policy No. 4.</p>

(c) Proposed Approach

To carry out the policy direction of the *Revised General Plan* for the Existing Rural Villages, a new zoning district is proposed, the “Rural Village Conservation (RVC)” district¹³. It, however, will not be applied in the villages immediately. It will be put in a placeholder section of the zoning ordinance until meetings and consultation with the village councils or other village groups about the regulation. (In the interim, the existing RC-Rural Commercial zoning districts will be maintained in the villages as well as the CR-1, CR-2, CR-3 and CR-4 districts.)

¹³ In part to distinguish it from the PD-RV (Planned Development – Rural Villages) district.

When applied, the RVC zoning district could take the place of the existing RC (Rural Commercial) and CR districts. For this reason, the RVC district consolidates and incorporates some of the characteristics of these districts. However, it is expanded to include contextual compatibility standards to address site design and layout issues to direct development within the villages to conform to the scale, height, bulk and general character of development within the respective village. Finally, it adds a recommended option, the RVC development option, to enable the County or landowners to establish more fine-grained development standards for each village.

This development option combines the concepts and features of two planning and zoning approaches – neighborhood conservation districts and specific plans – and gives the County the capability to customize the RVC district for each rural village. Neighborhood conservation districts have been implemented in other jurisdictions for areas that fall short of meeting the criteria for a local, state, or national historic designation, but which have important cultural, visual, or other significance. Some are directed at preserving the residential character of a neighborhood, maintaining a unique community center, or emphasizing an important cultural element of a community. The primary purpose of a neighborhood conservation district is to preserve the physical character of specific neighborhoods through development standards involving such features as block form, lot size and mix of lots, street width, connectivity, street tree planting, building height, setbacks, basic architectural features and landscaping – that are specifically tailored to the neighborhood.

Specific plans describe in more detail the type of development planned for a particular area than is typically found in a comprehensive plan, area plan, or zoning map. Specific plans can be used in developing areas as well as infill and redevelopment areas to identify overall area development or redevelopment goals, and to establish the specific objectives that need to be identified in drafting the type of development standards to attain certain development goals in an area.

The key features of the RVC district are outlined below. Each section is then discussed in the subsequent sections.

SUMMARY OF CONTENTS:

SEC. 2-300 RURAL VILLAGE CONSERVATION (RVC) DISTRICT

Sec. 2-301 Purpose

Sec. 2-302 Applicability & General Provisions

Sec. 2-303 Allowed Uses

Sec. 3-304 Development Standards

Sec. 3-305 General Village Development Requirements

Sec. 3-306 Rural Village Conservation District Development Option

(A) Initiation of RVC Development Option

(B) Contents of RVC Development Option

(C) Review of RVC Development Option
(D) Standards for Approval of RVC Development Option
(E) Additions and Amendments to Approved RVC Development Option

(i) Purpose

This first section of the RVC district identifies the County's goals for development of the villages and the purpose and intent of the district regulations. It expresses that the overriding objectives of the *Revised General Plan* for the villages is twofold:

- More intense residential development, all non-agriculturally related commercial uses, and more intense tourist accommodation uses and tourist service uses are directed from the Rural Policy Area into the Existing Rural Villages; and
- The individual character of each village is to be recognized and maintained by requiring infill and new development within the villages to be consistent with the existing scale, height, bulk and general character of development within the village.

It also outlines that mixed-use development with a variety of housing types, densities, and land uses is desired and appropriate within the villages. Using the language from the *Revised General Plan*, the intent and purpose of the RVC district is to:

- Recognize the Existing Rural Villages as important heritage resources that contribute to the rural economy and provide economic benefit to the County;
- Encourage the retention and reinforcement of the character and visual identity of the individual villages;
- Ensure the individual character of each of the villages is recognized and maintained by requiring infill and new development within the villages is consistent with the general character of development within the respective village, and has adequate public facilities;



Antique Store in Aldie

- Require new development in and around the villages to be designed to be visually compatible in terms of street pattern, street design and building footprint and setbacks;
- Discourage conventional, suburban forms of development that are not appropriate in and contiguous to the villages;
- Encourage a diverse range of dwelling unit types, including accessory apartments attached to single family dwellings or as second story uses in commercial structures;
- Discourage rezonings to higher residential densities in villages that do not provide a design that reinforces the character, pattern of development and identity of the village;
- Establish procedures to ensure that village residents are involved and consulted as development proposals and rezonings are considered;
- Discourage large-scale nonresidential uses in villages but encourage the location of small scale, convenience-sized commercial, industrial, and institutional uses that are compatible in scale to the surrounding buildings and related uses in the village and meet local neighborhood needs; and
- Prohibit mining or extraction activities in the villages.

(ii) *Applicability*

This section of the RVC district spells out that this zoning district will apply to all lands mapped RVC district.

(iii) *Allowed Uses*

Combining the uses from RC and CR-1, this section on allowed uses identifies the permitted and special exception uses in the RVC district¹⁴. Due to the planning and development objectives of the district, many uses formerly designated as “special exception” in either the RC or CR-1 districts are identified in the new RVC district as permitted. It is recommended that a use table with *use categories* and *use types* like that outlined for the new AR-1 and AR-2 districts be used to organize the allowed uses in an easily understood manner. The table with the suggested permitted and special exception uses is shown below.

As is the case with the other districts, it must be emphasized that this is a starting point for discussion purposes about the proposed uses in the RVC district. Additional public input is

¹⁴ Although now allowed in CR-1 or RC, uses considered inappropriate for the Existing Rural Villages have been deleted from the combined list. Some examples include intense agricultural activities, stables, pet farms and tenant dwellings.

needed about which of these uses is appropriate, whether additional uses need to be added, and what additional regulations are necessary, before a final list of uses is developed.

RURAL VILLAGE CONSERVATION DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	RVC	Performance Standards
RESIDENTIAL USES			
Household Living	Accessory apartment or dwelling unit	P	Section 5-613
	Dwelling, accessory to a permitted or special exception use	P	
	Dwelling, single-family detached	P	
	Home occupation	P	Section 5-400
	Portable dwelling/trailer during construction of primary residence	P	
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Guest house	P	Section 5-612
	Orphanage or similar institution	S	
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Bus shelter	P	
	Cemetery, mausoleum, or memorial park	S	
	Crematorium	S	
	Community center	P	
	Commuter parking lot	P	

RURAL VILLAGE CONSERVATION DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	RVC	Performance Standards
	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
	Library	P	
	Museum	P	
	Nature preserves	P	
	Post office, drop off and pick up	P	
Education	School, private elementary or middle, for less than fifteen (15) pupils	P	
	School	S	
	School, public	P	
Health Services	Office, medical and dental	P	
Recreation and Entertainment	Camp, day and boarding	S	
	Country club	S	
	Golf course	S	
	Playing fields and courts, lighted	S	
	Private club or lodge	P	
	Public or private community park	P	
	Recreation establishment, outdoor	S	
	Trail or path for bicycling or walking	P	
Religious Assembly	Church, synagogue and temple	P	
Public Safety	Fire and/or rescue station	S?	
Utility	Public utility service center and storage yard	S	

RURAL VILLAGE CONSERVATION DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	RVC	Performance Standards
	Public utility service center, without outdoor storage	P	
	Recycling drop off collection center, small	P	Section 5-607
	Recycling drop off collection center, large	S	Section 5-607
	Sewage treatment plant	S	
	Sewer pumping station	S	
	Utility substation, dedicated	P	
	Utility substation, distribution	S	Section 5-616
	Utility substation, transmission	S	Section 5-616
	Utility transmission line, overhead	S	
	Wastewater treatment facility	S	
	Water pumping station	P	
	Water storage tank	S	
COMMERCIAL USES			
Animal Service	Animal hospital	S	
	Kennel	S	Section 5-606
	Veterinary service	S	
Food and Beverage	Food store	P	
	Restaurant	P	
Office	Bank or financial institution, excluding drive-through facilities	P	
	Construction and/or sales trailer, during period of construction activity	P	

RURAL VILLAGE CONSERVATION DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	RVC	Performance Standards
	Office, administrative, business, and professional	P	
	Studio space – artist, craftsperson, writer, etc.	P	
	Apartment above office	S	
Retail Sales and Service	Art or photography gallery	P	
	Business service establishment	P	
	Facilities for lessons in dance, gymnastics, judo, and sports training	P	
	Farm machinery sales and service	S	Section 5-615
	Farm supplies	P	
	Personal service establishment	P	
	Theatre, indoor	P	
	Convenience food store, without gas pumps	P	Section 5-617
	Farm market	P	Section 5-603
	Home service establishment	P	
	Nursery, commercial	S	Section 5-605
	Personal service establishment ¹⁵	P	
	Printing service	P	
	Retail sales establishment	P	
	Wayside stand	P	
Visitor Accommodation	Bed and breakfast homestay	P	Section 5-601(A)

¹⁵ Should this be in both Recreation and Retail?

RURAL VILLAGE CONSERVATION DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	RVC	Performance Standards
	Bed and breakfast inn ¹⁶	P	Section 5-601(B)
	Country inn	P	Section 5-601(C)
INDUSTRIAL USES			
Radio and/or television tower	General Use Category	S	
	Telecommunications antenna	S	Section 5-618(A)
	Telecommunications monopole	S	Section 5-618(B)(1) & (B)(2)

(iv) *Development Standards*

This section on development standards proposes a three-pronged approach for addressing the development standards within the RVC district to ensure that redevelopment is consistent with the existing template of development, and lot sizes, lot dimensions, required yards, lot coverage, and building heights conform to the existing template of development to the greatest degree practicable.

First, a set of dimensional standards (divided into categories depending upon the availability of utilities and the type of use) are established for the district, as proposed below:

¹⁶ Changed from SPEX to P

Lot or Building Standard	Public Utilities		On-Site Utilities	
	Residential	Nonresidential	Residential	Nonresidential
Minimum Lot Size	10,000 sf	10,000 sf	40,000 sf.	40,000 sf
Minimum Lot Width	50 feet	50 feet	50 feet	50 feet
Minimum Front Yard	None	None	None	None
Maximum Front Yard	30 feet	30 feet	30 feet	30 feet
Minimum Rear Yard	25 feet	25 feet	50 feet	50 feet
Minimum Side Yard	10 feet	10 feet	10 feet	10 feet
Maximum Lot Coverage	70%	70%	35%	35%
Maximum Floor Area Ratio	None	.40	None	.40
Building Height	35 feet	35 feet	35 feet	35 feet

Second, any infill development that occurs within the villages is also required to comply with a set of “contextual compatibility standards” rather than the prescribing dimensional standards. Infill development, for example, will be required to conform with setback, yard and height requirements that are established by “average setbacks” and heights for all buildings on the same side of the street within a certain distance (say, 300 feet) or of the structures on both sides of the street. Additional contextual compatibility requirements are also required of infill development to ensure sidewalk connections are made if sidewalks exist on either side of the parcel. (See Figure 6.)

Third, some basic commercial character standards will be developed to address compatibility issues between commercial and residential development.

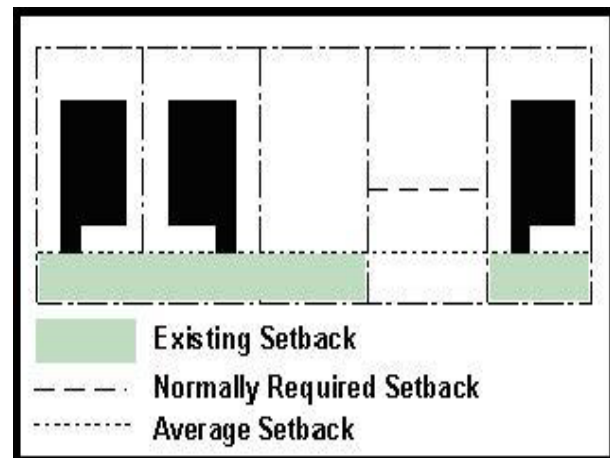


Figure 6: Average Setback Technique

(v) General Rural Village Development Requirements

Similar to the neighborhood development standards drafted for the new zoning districts in the Joint Land Management Areas (JLMA's) around the incorporated towns, it is also recommended that the RVC district include additional neighborhood development standards to reinforce existing development patterns within the villages to the greatest extent practicable. These provisions will relate to the following:

(a) *Street System/Connectivity*

A requirement that new development make connections to the existing or planned street system, make provision for future connections, and avoid certain street types (like cul-de-sacs, unless necessitated by topography or other environmental considerations).

(b) *Variation of Lot and Building Sizes*

A requirement that new residential subdivisions containing 6 or more lots include a mix of lot sizes and dimensions and distribute the different lot sizes throughout the subdivision rather than consolidate them in one area. Encouragement for a variety of building sizes will also be expressed.

(c) *Sidewalks*

A requirement that sidewalks be required along one side of all streets to provide pedestrian access to the other parts of the Existing Rural Village.

(d) *Civic and Open Space*

A requirement that a variety of greens, parks or natural open spaces be located throughout new development, where appropriate, to provide community identity, and ensure direct and convenient pedestrian and bicycle access to other portions of the village.

(e) *Other Design Requirements*

Finally, a requirement that street trees be planted, and garage locations be placed at least 20 feet behind the front line of buildings.

(vi) *Rural Village Conservation District Development Option*

To provide a framework to allow either the County in Phase 2 of the Plan implementation effort, or individual property owners in a fairly large area of an Existing Rural Village to develop more refined and finely-grained development and design standards to better ensure the individual character of each village is recognized and maintained, the RVC district regulations will also include a RVC district option that allows either the County (through the Board of Supervisors) or a group of property owners to initiate a request to modify the development standards for a portion or all of the RVC district lands through the special exception process.

(a) *Initiation of Rural Village Conservation District Development Option*

This section identifies how the RVC district option is initiated and the procedures for adoption of the development standards within the area subject to the option through the special exception process (application, statement of purpose, requirement for Village Conservation District option, etc.). Some amendments and cross references are also need to be included in the special exception process to incorporate this new procedure (Section 6-1300, Zoning Ordinance).

It is suggested that the regulation only allow the option to be initiated and considered by the County when the property owners of a 100 acre area within the boundaries of the RVC district or the Board of Supervisors initiate a request.

(b) *Contents of Application for RVC District Development Option*

In initiating an application for a RVC district option, the applicant is required to submit materials supporting proposed changes or new regulations. The types of standards that may be modified relate to block form, building type, scale, height, bulk, connectivity, orientation of building, roof pitch, street and utility standards and related standards within the district to ensure infill and new development more closely conforms with the traditional development patterns and forms in the Existing Rural Village.

(c) *Review and Approval of RVC District Development Option*

The next section of this new district details the formal review and approval process for the proposed development standards for the RVC district option. It includes review and advice by the village council (if applicable) and Planning Commission, and review and approval or disapproval by the Board of Supervisors.

(d) *Standards for Approval of RVC District Development Option*

This section includes the standards applicants are required to meet to have a RVC district option approved. The key standards require a demonstration that the proposed new regulations related to block form, building type, scale, height, bulk, connectivity, street and utility standards and related standards conform to and are consistent with the traditional development patterns in the village.

(e) *Additions and Amendments to Approved RVC District Development Option*

This final section of the RVC district addresses how additional land might be added to the geographic area covered by the RVC district option for a particular village and any special provisions for considering such requests (e.g., land proposed for addition must be contiguous to the village by a certain amount). It also describes how approved RVC district options could be amended.

5) Family Subdivisions

One mechanism available to landowners to subdivide lots in both the AR-1 and the AR-2 districts under the Loudoun County Land Subdivision and Development Ordinance (LSDO) (Section 1243.04) is the “family subdivision” provision. It allows a landowner to subdivide lots through creation of “family subdivisions,” where lots are transferred to family members as defined in the LSDO. Concerns about circumvention of this regulation have been expressed, and a policy adopted in the *Revised General Plan* states that one provision in these regulations should be changed – the provision that allows a family member to sell a lot subdivided and conveyed under the provision after owning the lot for one year. The *Revised*

General Plan policy directs that this limitation on how long the lot must be held by the family member be extended to 5 years.

To address this issue, it is suggested the language in Section 1243.04 be changed to read as follows:

If a family subdivision grantee conveys a lot or parcel received pursuant to an approved family subdivision within ~~one (1) year~~ five (5) years after the date of approval of the family subdivision plat, such family subdivision grantee shall be presumed to have intended at the time of the approval of the family subdivision to circumvent this chapter or other chapters of the Loudoun County Code.

6) Lot Splits

Another policy direction in the Plan relates to providing flexibility to landowners in the Rural Policy area through a procedure that allows them to subdivide small lots without having to cluster the development, and without limiting the sale to particular persons (i.e., family members under the family subdivision section).

Rural Residential Policy No. 8 of the *Revised General Plan* states:

In order to enable a property-owner to generate capital from the sale of a small lot, the County will provide for a spin-off lot subdivision process. Spin-off lots will not be limited by a minimum lot size, can be clustered, and will be served by a private access easement as long as the base density provided by the Zoning Ordinance for that area is maintained.

To implement this lot split policy directed in the Plan, an amendment to Section 1243.05.3 (Rural Spin-Off Lot Waiver) of the LSDO is recommended as an additional waiver provision for spin-off lots. The language of this new section would be structured to implement the following principles:

1. The spin-off lot provision is available only in the two agricultural-rural zoning districts in the Rural Policy Area (AR-1 and AR-2);
2. Lots created under this option may be conveyed to anyone, regardless of familial affiliation;
3. A private access easement may be utilized to provide vehicular access to the spin-off lot;
4. After using this option, the base density of the applicable zoning district must be maintained for both the “parent” tract and the “spin-off” lot. That is, a landowner must begin with a total of at least 100 acres of land in the AR-2 district (where the minimum lot size is 50 acres) and a total of at least 40 acres of

land in the AR-1 district (where the minimum lot size is 20 acres) to be eligible to use this waiver to subdivide a parcel into two lots;

Example 1: A landowner owns an 83-acre tract in the AR-1 district. The landowner wishes to create a spin-off lot. Since, after subdividing, both the parent tract and the spin-off lot must average at least 20 acres in size, the landowner is eligible to use the spin-off lot option ($83 \text{ acres} / 20 \text{ acres} = 4+ \text{ lots}$).

Example 2: A property owner has 78 acres in the AR-2 district. The property owner wishes to spin off a lot. The property owner cannot utilize this waiver since the two lots (original and resulting) must average a minimum of 50 acres in size and they could only average 39 acres in this case ($78 \text{ acres} / 2 \text{ lots} = 39 \text{ acres per lot}$).

5. No maximum or minimum lot size for the spin-off lot is required;
6. The option can be utilized only once every 5 years;
7. The option can be utilized only twice by any landowner;

Example 3: A landowner has 50 acres in the AR-1 zoning district and wishes to spin off a lot. The base density in this district requires each lot to be at least 20 acres. The landowner would only be able to create one (1) spin-off lot since dividing the original parent tract into three (3) separate lots would yield an average lot size just under 17 acres ($50/3 = 16.67 \text{ acres}$). Thus, the landowner would not be able to take advantage of this waiver a second time since the average lot size after subdividing must still be 20 acres.

8. If a landowner uses this option a second time, then the ability to cluster development on the remainder of the “parent” tract is lost;
9. A plan for a proposed spin-off lot must be submitted to the County and will be reviewed to ensure that the proposed lot meets certain standards, including:
 - a. The spin-off lot does not cause significant fragmentation of the parcel;
 - b. Opportunities for future cluster development on the remainder of the parent tract are maintained, where practicable;
 - c. The Green Infrastructure policies of the Plan and the requirements of the Zoning Ordinance and LSDO that relate to these policies are met;
 - d. The spin-off lot takes advantage of available road access.

10. When a spin-off lot is created under this waiver, the plat must contain a note(s) that clearly reflects the use of this waiver option.

III. Transition Policy Area

A. Background and Plan Direction

The Transition Policy Area covers about 7 percent of the land area of Loudoun County. (See Figure 7.) Presently, the area has a rural, low-density residential and agricultural character. Some approved but unbuilt planned residential developments also are found in the area. Existing nonresidential uses include quarries, nurseries, stables, kennels, and schools and other institutions.

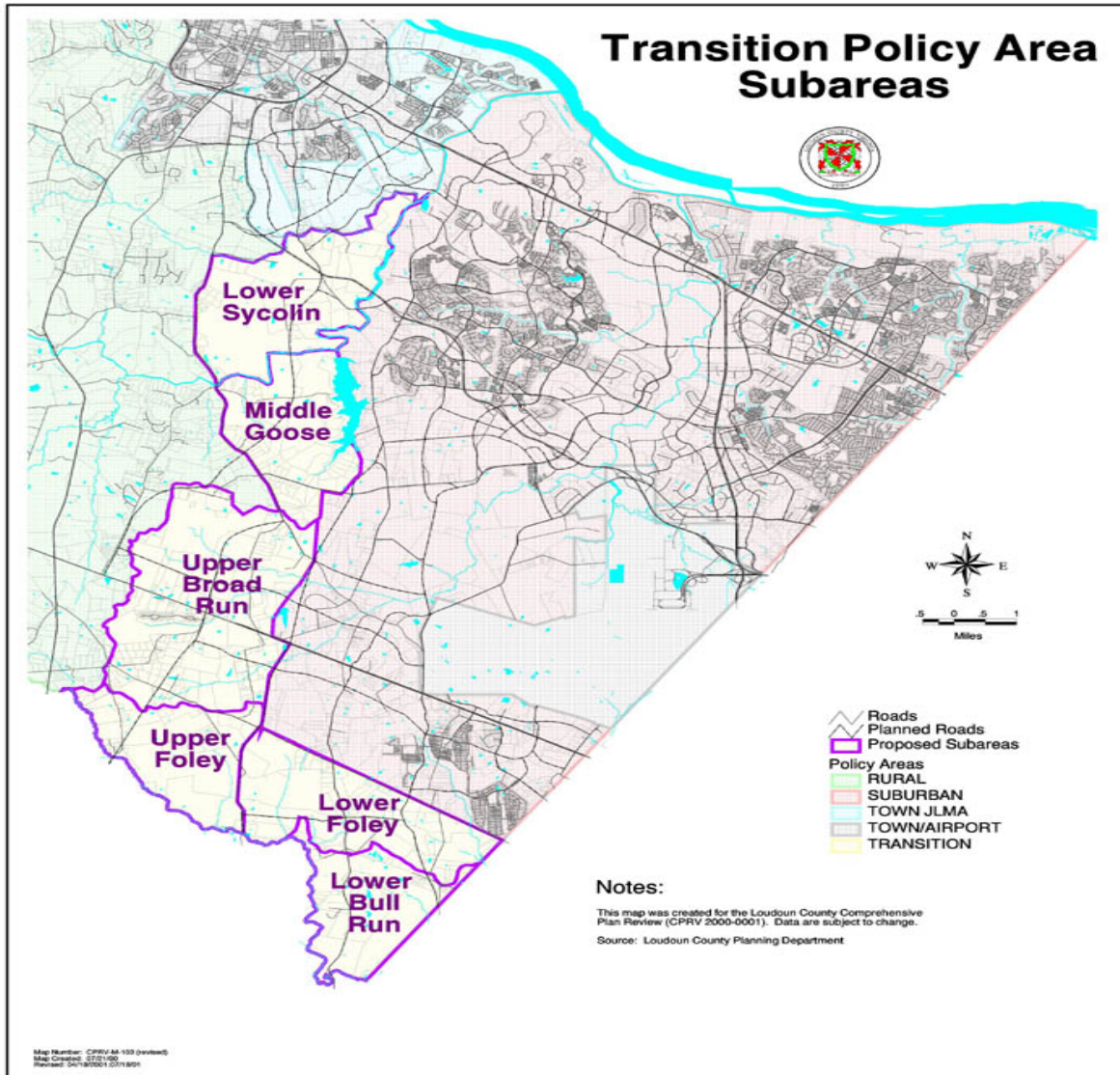


Figure 7: Transition Policy Area



Hamlet Development in Transition Policy Area

1) Existing Zoning

Existing zoning in the Transition Policy Area consists mostly of A-3 (Agricultural Residential) and CR-1 (Countryside Residential-1), which allow residential uses at 1 unit per 3 acres and 1 unit per acre, respectively. Nonresidential uses allowed under existing zoning include agricultural activities, equestrian facilities, small businesses, schools, and related uses. A few locations are zoned MR-HI (Mineral Resources – Heavy Industrial) to accommodate quarries; PD-H (Planned Development – Housing) to accommodate planned residential developments; and PD-RV (Planned Development – Rural Village) to accommodate planned rural villages. Additionally, “hamlet” style, cluster development has occurred in a couple of locations as a development option allowed under existing zoning.

2) Revised General Plan Objectives

For planning and regulatory purposes, 6 different sub-areas, based on natural drainage basins, are designated under the *Revised General Plan*. From north to south, these areas are Lower Sycolin, Middle Goose, Upper Broad Run, Upper Foley, Lower Foley, and Lower Bull Run (See Figure 7). Central water and sewer facilities are not available in Lower Sycolin and Middle Goose. Central sewer and water will be phased in Upper Broad Run and Upper Foley in accordance with a utility phasing plan. Central utilities are already available in the Lower Foley and Lower Bull Run sub-areas.

It is important to recognize that the Transition Policy Area is not viewed as a reserve or holding area for future development. Instead, it is planned to serve as a transition zone between the eastern Suburban Policy Area and the western Rural Policy Area. As previously described in an excerpt from the *Revised General Plan*:

The Transition Policy Area is envisioned as a distinct planning area to serve as a visual and spatial transition between the Suburban Policy Area to the east and the Rural Policy Area to the west. Portions of the Transition Policy Area will serve as future phasing areas to relieve development pressures. It is envisioned that the Transition Policy Area will afford some unique development opportunities within Loudoun County at intensities greater than those typically permitted in the Rural Policy Area. New development designs within the policy area will incorporate both suburban and rural features. (*Revised General Plan* at 8-1)

The *Revised General Plan* seeks to achieve a balance between the natural and built environments in the Transition Policy Area, and provides the following overall policy direction for future growth and development:

- Protect drinking water resources of the Occoquan, Beaverdam and Goose Creek Reservoirs by limiting density in the Lower Bull Run, Middle Goose and Lower Sycolin sub-areas;
- Protect and preserve natural open spaces as a visual element and enhancement to the area's river and stream corridors by requiring clustered development;
- Phase the provision of utilities, promote the use of communal water systems to protect groundwater quality by reducing the number of wells, and establish a road network that is consistent with the planned low density residential and rural character; and
- Encourage the development of mixed-use, moderate density villages, where appropriate.

The relevant *Revised General Plan* general policies for the Transition Policy Area are identified below.

GENERAL POLICIES FOR TRANSITION POLICY AREA	
General Policies (Plan at 8-2 to 8-4)	
1.	The County will protect the drinking water resources of the Occoquan, Beaverdam, and Goose Creek Reservoirs by limiting density in the Lower Bull Run, Middle Goose, and Lower Sycolin sub-areas.
2.	The County's vision for the Transition Policy Area is for land uses that provide a visual and spatial transition between the suburban development in the east and rural development in the west. The Transition Policy Area will be developed as a unique and innovative blend of rural and suburban development features that fully integrate the elements of the Green Infrastructure, and establish natural open spaces as a predominant visual element and enhancement to the area's river and stream corridors.
3.	Central utilities may be extended to the Lower Foley and Lower Bull Run sub-areas.

GENERAL POLICIES FOR TRANSITION POLICY AREA

4. Central utilities will only be extended to the Upper Broad Run and Upper Foley sub-areas in accordance with the utility phasing plan.
 5. Extension of central utilities (public water and sewer) will be phased in this order: (1) Upper Broad Run; (2) Upper Foley. Central water will be provided to serve the Landfill Water Service District located in the Lower Sycolin sub-area. (See Landfill Water Service Area Map).
 6. Central utilities will only be extended into the Upper Broad Run and Upper Foley sub-areas when all of the following criteria of the utility phasing plan are satisfied:
 - a) The County determines, based on updated County COG population and employment projections and other data (such as forecasts for absorption), that the demand for housing will cause a need for an additional supply of land available for higher development densities.
 - b) The substantial majority of the land within eastern Loudoun (including the Suburban Policy Area, Leesburg and the Leesburg JLMA) is subject to record plat or is prevented from future development through open space or development easements.
 - c) Required road improvements to include an improved Route 659 Relocated, as shown on the Revised Countywide Transportation Plan, which provides access from Route 50 to Route 7, are constructed in the Suburban Policy Area and in developing sub areas of the Transition Policy Area.
 - d) Public sewer and water facilities are financed or in place to serve higher density development.
 - e) The County determines, based on its Fiscal Policy, Capital Improvements Program and Operating Budget that it can adequately fund needed facilities and improvements.
 8. The County promotes the use of communal water systems to protect groundwater quality by reducing the number of wells.
 11. The County will support a compatible road network in the Transition Policy Area based on the ultimate planned densities established. Specific locations in the Transition Policy Area that maintain a low density and rural character will have ultimate roadways matched for appropriate capacities and road section type.
- Land-Use Policies (Plan, at 8-6 to 8-9)**
1. Residential uses within the Transition Policy Area will develop as Rural Villages, Countryside Villages, and Residential Clusters, with base densities and rezoning options related to the conditions of the specific sub-areas.
 2. The County will establish a density of one dwelling unit per ten acres with development clustered on lots up to three acres in the Lower Sycolin and Middle Goose sub-areas. The County will provide the option to rezone to a Rural Village with a density of one dwelling unit per three acres in accordance with *the 1993 Zoning Ordinance*. Development will be clustered to maintain a minimum of 70% of a site as open space.
 3. The County will retain the densities of one dwelling unit per three acres and one dwelling unit per acre as established in the current zoning patterns in the Upper Broad Run, Upper Foley, and Lower Foley and Lower Bull Run sub-areas.
 4. The County will revise the existing regulations in the zoning ordinance to require clustered development patterns with a minimum of 50% of the site maintained as open space and no minimum lot size to promote housing type diversity.

GENERAL POLICIES FOR TRANSITION POLICY AREA

5.	In the Upper Broad Run and Upper Foley sub-areas, densities up to 1.1 dwelling units per acre can be developed in Countryside Villages, with a minimum of 50% of the site maintained as open space when utilities are extended into these areas based on the utility phasing plan.
6.	In the Lower Foley sub-area, densities up to two dwelling units per acre can be developed in Countryside Villages, with a minimum of 50% of the site maintained as open space when utilities are extended into these areas based on the utility phasing plan. With density transfer from the Lower Bull Run sub-area, up to 3 dwelling units per acre may be possible.
7.	The Lower Bull Run sub area is planned for 1 dwelling unit per three acres. The County will provide the option to re-zone to a Rural Village with a density of one dwelling unit per three acres in accordance with the 1993 Zoning Ordinance. Development will be clustered to maintain a minimum of 70% of a site as open space. Density transfer to the Lower Foley sub-area is encouraged in accordance with the Density Transfer Guidelines of this Plan.
17.	Non-residential uses will serve to define the Transition Policy Area as a unique planning area. The County will allow for a range of uses that are compatible with desired development patterns and the rural landscape and are at intensities not permissible within the Rural Policy Area.
18.	Small-scale commercial uses permitted through the home occupation and small business provisions of the Zoning Ordinance are appropriate in the Transition Policy Area.
26.	Equestrian facilities and trail networks will be promoted and enhanced within the Transition Policy Area.

3) By-Right Development Allowed

As outlined above, the *Revised General Plan* identifies residential clusters of development with significant amounts of open space as the preferred development pattern for all of the sub-areas in the Transition Policy Area. The table below presents the various combinations of density and open space for the by-right development allowed for each of the 6 sub-areas.

BY-RIGHT DEVELOPMENT					
Sub-area	Gross Density	Cluster Required	Maximum Cluster Lot Size	Minimum Open Space	Public Utility Availability
Lower Sycolin	1 du/10 acres	Yes	3 acres	70%	Water only in Landfill Water Service District
Middle Goose	1 du/10 acres	Yes	3 acres	70%	None
Upper Broad Run	1 du/3 acres & 1 du / acre	Yes	None	50%	Subject to Utility Phasing Plan
Upper Foley	1 du/3 acres & 1 du / acre	Yes	None	50%	Subject to Utility Phasing Plan
Lower Foley	1 du/3 acres & 1 du / acre	Yes	None	50%	Available
Lower Bull Run	1du/3 acres	Yes	None	70%	Available

4) *Optional Development Allowed*

The *Revised General Plan* also provides for rezoning options for future development in each sub-area. These options enable higher densities if the development occurs in a compact, clustered, village pattern with protection of natural resources and open space. For the lower density sub-areas (Lower Sycolin, Middle Goose and Lower Bull Run), the available option is to rezone to PD-RV to create a “Rural Village” with 70% open space. For the other three sub-areas, the Plan introduces the concept of a “Countryside Village,” where a minimum of 50% open space must be retained. The following table illustrates these available rezoning options for the sub-areas in the Transition Policy Area.

REZONING OPTION				
Sub-area	Gross Density	Village Type	Minimum Open Space	Density Transfer Required?
Lower Sycolin	1 du/3 acres	Rural	70%	No
Middle Goose	1 du/3 acres	Rural	70%	No
Upper Broad Run	1.1 du/acre	Countryside	50%	No
Upper Foley	1.1 du/acre	Countryside	50%	No
Lower Foley	2.0 du/acre	Countryside	50%	No
	3.0 du/acre	Countryside	50%	Yes, from Lower Bull Run
Lower Bull Run	1 du/3 acres	Rural	70%	Yes, to Lower Foley

5) *Implementing the Plan Policy Direction*

An assessment of Loudoun County’s existing land use regulations shows that the County is not be able to implement these various policies for lower densities, mandatory residential cluster development and village communities without undertaking a series of regulatory changes. These changes include:

- **Lower Sycolin and Middle Goose Sub-Areas.** Preparation of a new base zoning district (TR-10) for the Lower Sycolin and Middle Goose sub-areas in the northern portion of the Transition Policy Area. This district will establish a base density of 1 dwelling unit per 10 acres with a mandatory cluster development requirement retaining 70% open space (TR-10).
- **Upper Broad Run, Upper Foley and Lower Foley Sub-Areas.** Revising and renaming the A-3 and CR-1 districts for the Upper Broad Run, Upper Foley and Lower Foley sub-areas to distinguish these zoning districts located in the Transition Policy Area from other areas of the County. These districts shall require cluster development and 50% open space, provide for nonresidential uses, and include general standards to address the intensity and scale of such uses. They will be renamed TR-3 and TR-1, respectively.

- **Lower Bull Run Sub-Area.** Application of the new TR-3 district (with densities at 1 unit per 3 acres) in the Lower Bull Run sub-area with a mandatory cluster requirement retaining 70% open space.
- **Mandatory Residential Cluster Development Provisions.** The incorporation of mandatory residential cluster requirements for use in all the districts in the Transition Policy Area.
- **New Countryside Village District.** The preparation of a new PD-CV (Planned Development - Countryside Village) District to be available for rezonings in the Upper Broad Run, Upper Foley, and Lower Foley sub-areas.
- **Changes to Rural Village District.** The revision of selected standards in the PD-RV (Planned Development - Rural Village) District in an effort to improve upon the desired type of village development in the Lower Sycolin, Middle Goose and Lower Bull Run sub-areas.

In an effort to make the proposed amendments more easily understood, they are identified and explained by specific sub-areas of the Transition Policy Area. This is followed by a discussion of the amendments that have relevance in several or all of the sub-areas.



B. Lower Sycolin and Middle Goose Sub-Areas

1) General Commentary

For the two northern sub-areas (Lower Sycolin and Middle Goose – see Figure 8), the *Revised General Plan* recommends that development generally take place at low densities – an average of 1 unit per 10 acres – in a mandatory cluster fashion reserving 70% open space. Rezoning to Rural Villages are also allowed, if the villages incorporate strong design elements and retain 70% open space.

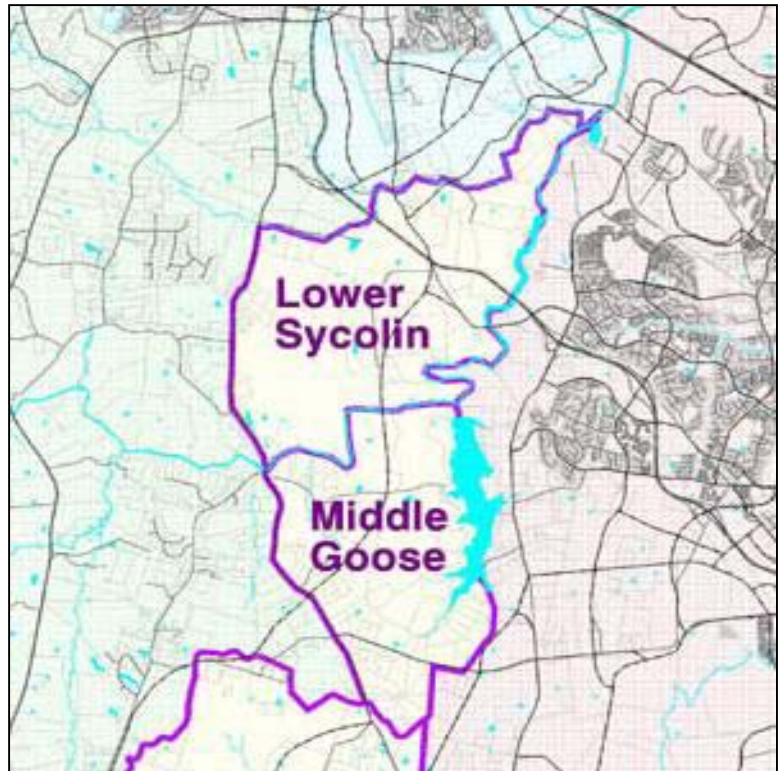


Figure 8: Lower Sycolin & Middle Goose Sub-Areas

The *Revised General Plan* policies related to Lower Sycolin and Middle Goose state:

CHAPTER 8: POLICIES FOR LOWER SYCOLIN AND MIDDLE GOOSE

Land Use Policies (Plan at 8-6 to 8-9)

2. The County will establish a density of one dwelling unit per ten acres with development clustered on lots up to three acres in the Lower Sycolin and Middle Goose sub-areas. The County will provide the option to rezone to a Rural Village with a density of one dwelling unit per three acres in accordance with the 1993 Zoning Ordinance. Development will be clustered to maintain a minimum of 70% of a site as open space.

8. The design guidelines for the Lower Sycolin, Middle Goose and Lower Bull Run sub-areas will incorporate the design criteria for Rural Villages in the existing 1993 Zoning Ordinance, to foster developments in the character of Rural Villages.

The intent of this policy direction is to make a transition to the Rural Policy Area through maintenance of a more rural character, creation of residential clusters, and protection of natural resources through reservation of large amounts of open space and the application of

conservation design principles (Section IV). No central water and sewer facilities are provided in the area (except central water is provided in the Landfill Water Service Area District in the Lower Sycolin sub-area), so water and sewer facilities are to be provided privately. Communal utilities are encouraged.

A new TR-10 (Transitional Residential – 10) base zoning district and the existing PD-RV (Planned Development – Rural Village) district are needed to implement the Plan’s policy direction for the Lower Sycolin and Middle Goose sub-areas.

The new TR-10 (Transitional Residential – 10) district is generally based on the current A-10 (Agriculture) district, establishing the desired density of one unit per 10 acres, but includes a residential cluster requirement with 70% open space. Conservation design principles are also applied, consistent with the proposed regulations to implement conservation design outlined in the next section. The mandatory cluster development requirement is presented in this part of the report since this is the first time it is discussed. It is noted, however, that the mandatory cluster requirement is applied in all sub-areas of the Transition Policy Area. Rather than discuss it in detail in each section, it is discussed in conjunction with the TR-10 district, and referenced in subsequent sections. It is suggested the cluster provisions be placed in a common section of the zoning ordinance for reference by the Transition districts subject to the mandatory cluster requirement. They will replace the existing cluster options in Article V (Sec. 5-701 Low Density Development Option, Section 5-702 Rural Hamlet Option and Section 5-703 Countryside Hamlet Option).

The PD-RV (Planned Development – Rural Village) is discussed in Section IV.F, since it is a zoning district that is available for several sub-areas, namely Lower Sycolin, Middle Goose and Lower Bull Run. (It is easier to understand the recommended changes to the existing PD-RV after we present a new Countryside Village district that is to be made available for use in other sub-areas of the Transition Policy Area.)

It is suggested that the County place the new transition districts in a new article of the zoning ordinance, between the Rural and Urban districts. The new Transition district article is titled IIA.

The provisions of the new TR-10 district are described below.

2) TR-10 (Transitional Residential – 10)

SUMMARY OF CONTENTS:

SEC. 2A-100 TR-10 (TRANSITIONAL RESIDENTIAL – 10)

Sec. 2A-101 Purpose

Sec. 2A- 102 Applicability

Sec. 2A-103 Allowed Uses

Sec. 2A-104 Lot and Building Requirements

<p><i>Sec. 2A-105 Open Space Requirements</i></p> <p><i>Sec. 2A-106 Mandatory Cluster Requirements</i></p> <p><i>Sec. 2A-107 Transportation and Utility Requirements</i></p> <p><i>Sec. 2A-108 Other Special Requirements</i></p>

(a) Purpose

This section presents the purpose and intent of the TR-10 district for the Transition Policy Area. It includes language that reflects the general intent of all zoning districts in the Transition Policy Area, including:

- Create a visual/spatial transition between the eastern suburban area and the western rural area of the County;
- Achieve a blend of rural and suburban development;
- Protect and integrate open space and natural resources; and
- Protect drinking water resources.

Additionally, specific language to indicate the County's intent with regard to requiring clustered residential development and significant amounts of open space (70% of a development project) in the TR-10 district is included.

(b) Applicability

This section spells out that the TR-10 district applies to all lands in the Lower Sycolin and Middle Goose sub-areas of the Transition Policy Area as identified in the *Revised General Plan*.

(c) Allowed Uses

A use table for both "permitted" and "special exception" uses is provided in this subsection. Based on *Revised General Plan* policy direction, a stronger emphasis is placed on nonresidential and equestrian uses (see Land Use Policy 26). For example, retail sales establishments and restaurants are now allowed in the district as special exceptions. Additionally, small businesses are now allowed uses (see Land Use Policy 18). The uses in the TR-10 district are loosely based on the uses in the A-10 district. As within the other districts, the proposed use table serves as a starting point for discussion purposes about the proposed uses. Additional public input is needed about which of these uses is appropriate and whether additional uses need to be added before a final list of uses is developed.

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
RESIDENTIAL USES			
Household Living	Accessory apartment or dwelling unit	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	
	Home occupation	P	Section 5-400
	Tenant dwelling	P	Section 5-602 (A) & (C)
	Tenant dwelling	S	Section 5-602 (B) & (C)
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Convent, monastery, or seminary	S	
	Guest house	P	Section 5-612
	Orphanage or similar institution	S	
AGRICULTURAL USES			
Agriculture (agronomy, aquaculture, biotechnical agriculture (including educational park for biotechnical agriculture, or a demonstration farm) forestry, fishery and honey production)	General Use Category	P	
Horticulture ((production of Christmas trees, field grown crops, specialty crops, flowers, fruit, nursery stock, nuts, ornamental plants, produce or fruit grown from genetically engineered organisms, sod, vegetables and wine grapes)	General Use Category	P	
Animal Husbandry ((raising and production	General Use Category	P	

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
of bison, cattle (Beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep)	Equestrian facility, on lots of fifty (50) acres or more, with frontage on a state maintained road	P	
	Equestrian facility, on lots of less than fifty (50) acres, with frontage on a state maintained road	S	
	Stable, neighborhood on lots of twenty five (25) acres or more, with frontage on a state maintained road	P	
	Stable, neighborhood on less than twenty five (25) acres, or without frontage on a state maintained road	S	
	Stable, private	P	
Agriculture Support and Services Related to Basic Agriculture, Horticulture and Animal Husbandry	Mill, feed and farm supply center	P	
	Nursery, production, with frontage on a state maintained road	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet Farm	P	
	Sawmill	P	
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609 (A)
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Airport	S	
	Bus shelter	P	
	Cemetery, mausoleum, or memorial park	S	
	Crematorium	S	
	Community center	S	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with less than 50 spaces	P	

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Fairgrounds	S	
Education	School, private elementary or middle, for less than fifteen (15) pupils	P	
	School	S	
	School, public	S	
Health Services	Office, medical	P	
Recreation and Entertainment	Arboretum	S	
	Camp, day and boarding	S	
	Country club	S	
	Golf course	S	
	Marina	S	
	Medical care facility, outpatient	S	
	Nature preserve, such as but not limited to, wildlife sanctuary, conservation areas, and game preserve	P	
	Playing fields and courts, lighted	S	
	Private club or lodge	S	
	Public or private community or regional park	S	
	Public or private playground, or neighborhood park	P	
	Recreation establishment, outdoor	S	
	Trail or path for bicycling or walking	P	

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Religious Assembly	Church, synagogue and temple	S	
Public Safety	Fire and/or rescue station	S	
	Police Station	S	
Utility	Public utility service center and storage yard	S	
	Public utility service center, without outdoor storage	P	
	Recycling drop off collection center, large	S	Section 5-607
	Recycling drop off collection center, small	P	Section 5-607
	Sewage treatment plant	S	
	Sewage pumping station	S	
	Utility substation, dedicated	P	
	Utility substation, distribution	S	Section 5-616
	Utility substation, transmission	S	Section 5-616
	Utility transmission line, overhead	S	
	Water pumping station	P	
	Water storage tank	S	
	Water treatment plant	S	
COMMERCIAL USES			
Animal Service	Animal hospital	S	
	Kennel	S	Section 5-606
	Veterinary service	S	

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Food and Beverage	Restaurant	S	
	Restaurant, carry-out only	S	
Office	Construction and/or sales trailer, during period of construction activity	P	
	Educational or research facility related to uses permitted in this district	S	
	Rural agricultural corporate retreat	P or S	Section 5-619
	Studio space – artist, craftsman, writer, etc	P	
Retail Sales and Service	Auction house	S	
	Farm machinery sales and service	P	Section 5-615
	Farm market	S	Section 5-603
	Farm supplies	P	
	Nursery, commercial	S	Section 5-605
	Small business	S	Section 5-614
	Wayside stand	P	Section 5-604
Visitor Accommodation	Bed and breakfast homestay	P	Section 5-601(A)
	Bed and breakfast inn	S	Section 5-601(B)
	Country inn	S	Section 5-601(C)
	Guest farm or ranch, leasing four (4) to twenty (20) guest rooms	S	
	Guest farm or ranch, leasing no more than three (3) guest rooms	P	
	Rural resort	S	Section 5-601

TR-10 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-10	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Rural retreat	S	Section 5-601(D)
INDUSTRIAL USES			
Manufacturing	Agricultural processing facilities such as abattoir, cannery, grain mill, and the like	S	
	Borrow pit for construction	S	
	Extraction of sedimentary rock	S	
	Vegetative waste composting facility	S	
	Yard waste composting	S	
Telecommunication Facilities	Radio and/or television tower	S	
	Telecommunications antenna	S	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)
	Testing station	S	

(d) Lot and Building Requirements

This section includes development standards regarding lot size, lot dimensions, required yards, lot coverage and building height. There will be standards for clustered residential development, nonresidential development and agricultural development. It will account for the conservation design requirements outlined in Section IV (Conservation Design). Since communal systems with subsurface discharge are encouraged and central water service is permitted within the Landfill Water Service Area District in the Lower Sycolin sub-area, different development standards will be provided for on-site versus other utility provision.

These general standards will be set down in a table.

(e) *Open Space Requirements*

This section of the regulations states development in the TR-10 district is to occur in a cluster fashion with preservation of 70% open space in accordance with the new cluster development requirements.

(f) *Mandatory Cluster Requirements*

(i) *General Commentary*

The *Revised General Plan* policies that relate to the residential cluster requirement state:

TRANSITION POLICY AREA POLICIES FOR CLUSTER OPTION	
Land Use Policies (Plan, at 8-6 to 8-9)	
4.	The County will revise the existing regulations in the Zoning Ordinance to require clustered development patterns with a minimum of 50% of the site maintained as open space and no minimum lot size to promote housing type diversity
9.	Residential Cluster development in all Transition Policy Area sub-areas close to the Rural Policy Area will develop as clusters, of 5 to 25 units with predominantly single-family detached residential units. The Residential Cluster is intended to draw from the traditional development pattern of Rural Hamlets and facilitate a transition in the scale of residential cluster developments from the Suburban to Rural Policy Areas.
10.	Residential Clusters and Villages will be developed with specific design criteria that help to form open space (which may include active and passive recreation) surrounding the residential development. Refer to the Design Guidelines contained in Chapter 10.
11.	Residential Cluster developments allow landowners to group lots in a traditional rural community pattern while preserving the majority of the land base in open space. A Residential Cluster is the grouping of building units on small lots with the largest part of the site remaining in open land. There is no minimum lot size for the clustered lots. The cluster is both visual and spatial with the dwellings scaled and sited to maintain coherent relationships to each other and the surrounding landscape. The residual open land accounts for the overall lower density of the site.
12.	The County may consider a cluster to include the siting of houses in a group using conservation design and not just the siting of lots on a parcel.

13.	In locating the open space required in the conservation design of a Residential Cluster, the County will consider the contiguity of the open space area to other designated open space and unique site features and Green Infrastructure implementation.
14.	Open space provided within developments will be located to accomplish the following: <ul style="list-style-type: none"> a. Create and supplement the 300-foot buffer and 200-foot transitional area proposed along the Bull Run in the Upper Foley, Lower Foley and Lower Bull Run sub-areas, consistent with the RSCOD policies. b. Create and supplement the 300-foot buffer and 1000-foot voluntary open space area proposed along the Goose Creek and the Goose Creek Reservoir and the Beaverdam Reservoir in the Lower Sycolin and Middle Goose sub areas, consistent with the RSCOD policies. c. Create a contiguous network of green spaces to supplement the Countywide Green Infrastructure.
15.	Adding to the creation of the greenbelts and buffer will be credited to the satisfaction of open space requirements.

To clearly define the intent, requirements, and process for achieving residential clusters that meet Plan goals, it is recommended this new section be prepared and included in the zoning ordinance. It establishes the specific parameters for the mandatory residential cluster requirement for the TR-10, TR-3 and TR-1 districts.

In many respects, the mandatory residential cluster requirement is similar to the residential cluster option for the new AR-1 and AR-2 districts, except it is mandatory.

For example, in the TR- 10 district, the cluster requirement allows residential development at 1 unit per 10 acres. Design of the cluster needs to be consistent with conservation design principles (Section IV). The residual open space on the site (70%) consists of primary/secondary conservation areas, and lands for active recreational opportunities.

The proposed structure and sections of the residential cluster requirement are outlined below.

SUMMARY OF CONTENTS:

SEC. 2A-105 MANDATORY CLUSTER REQUIREMENTS

- (A) Density, Lot, and Open Lands Requirements***
- (B) Cluster Lots Elements, Siting and Design Guidelines***
- (C) General Siting Requirements/Conservation Design***
- (D) Allowed Uses***
- (E) Cluster Development Standards***
- (F) Transportation Requirements***
- (G) Utility Requirements***

(a) *Density and Lot Requirements*

In this section a table listing all transition area zoning districts where residential clustering is required is included. It identifies the gross density, minimum and maximum lot sizes (if any), and the required amount of open space for cluster developments.

District	Gross Density	Min. Lot Size	Max. Lot Size	Minimum Open Space	
TR-10	1 dwelling unit/10 acres	None	3 acres	70%	
TR-3	1 dwelling unit/3 acres	None	None	50%	70% for Lower Bull Run
TR-1	1 dwelling unit/acre	None	None	50%	

(b) *Cluster Elements, Siting, and Design Guidelines*

This section spells out that the two component parts of the residential cluster requirement are the clustered area of residential lots and the open space lands outside the cluster. It begins with a macro-level description of the general siting requirements for the residential clustered subdivision in conjunction with the conservation design standards. This is followed by specific standards for the development of the clustered lots, and the parameters for use and development of the open space lands.

Before the section is triggered a landowner must develop two residential units. In the TR-10 district this requires at least 20 acres of land. (In the TR-3 district at least 6 acres is required. In the TR-1 district at least 2 acres is required.)

In the TR-10 district, the maximum lot size of any of the clustered parcels is no greater than 3 acres. There is no minimum lot size requirement.

(c) *General Siting Requirements/Conservation Design*

This section establishes that the actual siting and site layout of the residential cluster lots occurs simultaneously with the analysis required to be undertaken to comply with the conservation design principles outlined in Section IV (*Conservation Design*). The section also establishes the standards for application of the conservation design principles in the design of the residential cluster. They require that:

- To comply with the conservation design process the required analysis is undertaken at the time of the review of a preliminary plat for subdivision.
- Open space lands are set aside consistent with the open space standards for the district.
- All primary conservation area lands are protected and included in the open space lands. A 100% credit is given against the open space set aside for the

primary conservation lands protected, consistent with the standards established in the conservation design regulations (See Section IV).

- To the extent possible given the size of the parcel, lots are required to be located in clusters of 5-25 lots. However, multiple lot clusters may be located on a site to comply with conservation design principles or to allow for substantial contiguous open space lands, as long as there are coherent relationships between the lots within the cluster and the surrounding landscape.

(d) *Allowed Uses*

This section presents the uses allowed in the two parts of a residential cluster. Any applicable limitations or conditions for uses are also included.

(e) *Cluster Development Standards*

This next section specifies the dimensional requirements such as lot size (minimum and maximum), lot dimensions, required yards, and building height. It accounts for the conservation design requirements outlined in Section IV. These general standards will be set down in a table.

(f) *Transportation Requirements*

This section deals with requirements for roads and streets serving a residential cluster. It covers:

- The type of road (e.g., VDOT secondary, VDOT Class II, private access easement) needed to access various sizes of clusters; and
- Language to allow waiver of public road standards, provided certain criteria are met.

(g) *Utility Requirements*

This section identifies the type of water and wastewater services that are allowed to serve residential cluster developments. For water, these include individual wells (on or off each lot), communal water systems, or public water systems if the land is within an area designated for such connection in the *Revised General Plan*. For wastewater provision the section permits individual, communal, or public sewage disposal systems (again, if it is provided in the sub-area where the proposed development takes place). Finally, the section notes any conditions of approval for such systems.

Sub-Area	Available Utilities
Lower Sycolin	<ul style="list-style-type: none"> • On-site water and sewer • Communal water and sewer systems • Septic systems • Public water only in the “Landfill Water Service District”
Middle Goose	<ul style="list-style-type: none"> • On-site water and sewer • Septic systems • Communal water and sewer systems

An example of how the mandatory cluster requirement would be applied in the TR-10 district is outlined below.

Example of Residential Cluster TR-10 district

As a hypothetical example of how the residential cluster requirement works in the TR-10 district, assume a 100-acre development parcel. The zoning allows 10 units under the residential cluster. The open space set aside requirement on the site is 70 acres. The applicant and County staff as part of the conservation design process first identify the primary conservation resources on the site that are protected (e.g., a stream corridor). Assume these primary conservation areas amount to 30 acres. The applicant gets a 100% “credit” towards the open space requirement for protecting these primary resources. This leaves 40 acres of the open space requirement still to be fulfilled and a total of 30 acres available for development. The 40 acres of open space remaining is configured on the site by the applicant and County staff in a way to best protect the most significant secondary conservation resources—wildlife habitat, prime agricultural lands, etc. The land can also be used for active recreation. The resulting property configuration and use allocation looks like this:

Developable area for residential lots—30 acres for 10 dwelling units (underlying density is, in effect, transferred from the conservation areas and open space on a full 1:1 basis).

Primary conservation area—30 acres, of which 30 acres is credited towards the open space requirement.

Other Open space set aside—40 acres (both secondary conservation areas and active recreation lands)

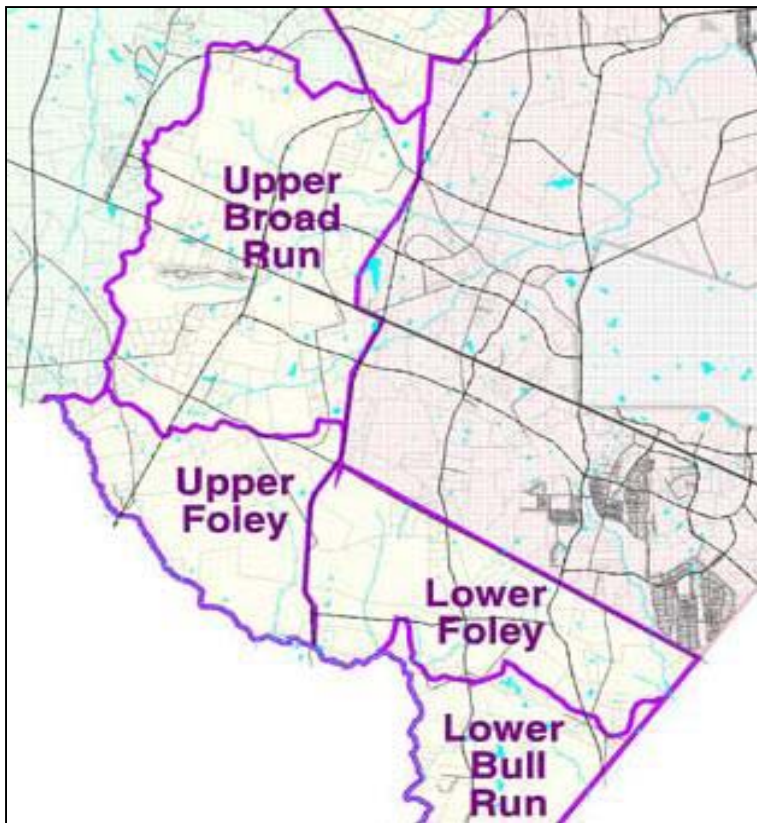
Total Land Set Aside: 70 acres

C. Upper Broad Run, Upper Foley, and Lower Foley Sub-Areas

1) General Commentary

While most of Upper Broad Run, Upper Foley and Lower Foley are zoned A-3 (Agricultural Residential), where residential development may occur at 1 unit per 3 acres, the southern portion of Upper Broad Run and small areas of Upper Foley and Lower Foley are zoned CR-1 (Countryside Residential-1), where residential development may occur at 1 unit an acre. As noted earlier, central water and sewer services will be phased for the Upper Broad Run and Upper Foley sub-areas. On the other hand, central water and sewer services are already available within the Lower Foley sub-area.

The *Revised General Plan* policies confirm that the density of development allowed under the two existing zoning districts (AR-3 and CR-1) in Upper Broad Run, Upper Foley and Lower Foley is consistent with the goals of the Transition Policy Area. However, the Plan also states that these existing districts do not facilitate the achievement of other goals important to development in the sub-areas. In particular, the Plan directs that in the Upper Broad Run, Upper Foley and Lower Foley sub-areas development should:



- Be clustered and maintain a minimum of 50% open space (even though it is not necessary to require a minimum lot size in the cluster option); and
- Ensure the type, scale, and intensity of non-residential land uses are consistent with the goals for these sub-areas (including golf courses, active recreation, kennels, nurseries, schools, and other compatible institutional uses).

Figure 9: Upper Broad Run, Upper Foley, & Lower Foley sub-areas

The *Revised General Plan* policies related to Upper Broad Run, Upper Foley and Lower Foley for the Transition Policy Area state:

POLICIES FOR UPPER BROAD RUN, UPPER FOLEY AND LOWER FOLEY	
General Policies (Plan, at 8-2 to 8-4)	
3.	Central utilities may be extended to the Lower Foley and Lower Bull Run sub-areas.
4.	Central utilities will only be extended to the Upper Broad Run and Upper Foley sub-areas in accordance with the utility phasing plan.
5.	Extension of central utilities (public water and sewer) will be phased in this order: (1) Upper Broad Run; (2) Upper Foley. Central water will be provided to serve the Landfill Water Service District located in the Lower Sycolin sub-area. (See Landfill Water Service Area Map).
6.	Central utilities will only be extended into the Upper Broad Run and Upper Foley sub-areas when all of the following criteria of the utility phasing plan are satisfied: <ul style="list-style-type: none"> f) The County determines, based on updated County COG population and employment projections and other data (such as forecasts for absorption), that the demand for housing will cause a need for an additional supply of land available for higher development densities. g) The substantial majority of the land within eastern Loudoun (including the Suburban Policy Area, Leesburg and the Leesburg JLMA) is subject to record plat or is prevented from future development through open space or development easements. h) Required road improvements to include an improved Route 659 Relocated, as shown on the Revised Countywide Transportation Plan, which provides access from Route 50 to Route 7, are constructed in the Suburban Policy Area and in developing sub areas of the Transition Policy Area. i) Public sewer and water facilities are financed or in place to serve higher density development. j) The County determines, based on its Fiscal Policy, Capital Improvements Program and Operating Budget that it can adequately fund needed facilities and improvements.
7.	The County may consider the earlier extension of central utilities into the Upper Broad Run and Upper Foley sub-areas if a supermajority of property-owners within those sub-areas proposes a unified development plan that achieves the goals for design, land use, transportation, public facilities, and density called for in the <i>Revised General Plan</i> .
Land Use Policies (Plan, at 8-6 to 8-9)	
3.	The County will retain the densities of one dwelling unit per three acres and one dwelling unit per acre as established in the current zoning patterns in the Upper Broad Run, Upper Foley, and Lower Foley and Lower Bull Run sub-areas.
4.	The County will revise the existing regulations in the Zoning Ordinance to require clustered development patterns with a minimum of 50% of the site maintained as open space and no minimum lot size to promote housing type diversity.
5.	In the Upper Broad Run and Upper Foley sub-areas, densities up to 1.1 dwelling units per

POLICIES FOR UPPER BROAD RUN, UPPER FOLEY AND LOWER FOLEY

acre can be developed in Countryside Villages, with a minimum of 50% of the site maintained as open space when utilities are extended into these areas based on the utility phasing plan.

6. In the Lower Foley sub-area, densities up to two dwelling units per acre can be developed in Countryside Villages, with a minimum of 50% of the site maintained as open space when utilities are extended into these areas based on the utility phasing plan. With density transfer from the Lower Bull Run Sub-area, up to 3 dwelling units per acre may be possible.

27. The County will protect the Bull Run Quarry in the Lower Bull Run sub-area and the Luck Stone Quarry in the Lower Sycolin sub-area from incompatible uses by ensuring that encroaching new development does not hinder the quarry operation.

To implement the needed changes identified in the *Revised General Plan* about how development is guided in these sub-areas, it is recommended that the zoning ordinance be amended to establish two new zoning districts: TR-3 (Transitional Residential – 3) and TR-1 (Transitional Residential – 1). These districts are based on the A-3 and CR-1 districts, and are applied on the same lands where the existing A-3 and CR-1 districts regulate development in the Transition Policy Area. As with the TR-10 district, the cluster development requirements will either be placed in the district regulations or in a separate section in the zoning ordinance.

Finally, the *Revised General Plan* introduces the use of a new development type – “Countryside Villages” – for these three sub-areas. Countryside Villages allow for higher residential densities in exchange for well-designed, compact, mixed-use communities that exhibit a more intense core area surrounded by natural open spaces. The features of this new zoning option are discussed later in Section III.E since it is available in several of the sub-areas.

The features of the new TR-3 and TR-1 districts are outlined below.

2) TR-3 (Transitional Residential – 3)

SUMMARY OF CONTENTS

SEC. 2A-200 TR-3 (TRANSITIONAL RESIDENTIAL – 3)

Sec. 2A-201 Purpose

Sec. 2A-202 Applicability

Sec. 2A-203 Allowed Uses

Sec. 2A-204 Lot and Building Requirements

Sec. 2A-205 Cluster Requirements

Sec. 2A-206 Transportation and Utility Requirements

(a) Purpose

This section presents the purpose and intent of the new TR-3 zoning district. Like the TR-10 district, this statement includes language that reflects the intent of all zoning districts in the Transition Policy Area (i.e., create a visual/spatial transition between the eastern

suburban area and the western rural area of the County, achieve a blend of rural and suburban development, protect and integrate open space). Similarly, this purpose and intent language notes the County's policy direction concerning mandatory, clustered residential development with the protection of open space in the TR-3 district.

(b) Applicability

This section of the TR-3 district states that the zoning district applies to lands designated TR-3 in the Upper Broad Run, Upper Foley, and Lower Foley sub-areas of the Transition Policy Area as identified in the *Revised General Plan*.

(c) Allowed Uses

A use table for both "permitted" and "special exception" uses is provided in this section. The use table is subdivided into use categories and use types as is outlined in the discussion on the use table for the AR-1 district.

This new TR-3 district uses as a starting point the existing uses in the A-3 district. However, consistent with *Revised General Plan* policies, the new TR-3 district places a stronger emphasis on nonresidential uses and equestrian uses than the A-3 district (see Land Use Policies 18 and 26). Some of those uses include:

- Equestrian centers,
- Golf courses,
- Active recreation,
- Kennels,
- Retail nurseries,
- Similar commercial uses
- Schools and related institutional uses,
- Small-scale home occupations, and
- Small businesses

This use table serves as a starting point for discussion purposes about the proposed uses in the TR-3 district. Additional public input is needed about which of these uses is appropriate and whether additional uses need to be added before a final list of uses is developed.

TR-3 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-3	Performance Standards
RESIDENTIAL USES			
Household Living	Accessory apartment or dwelling unit	P	Section 5-613

TR-3 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-3	Performance Standards
	Dwelling, single-family detached, including manufactured housing	P	
	Home occupation	P	Section 5-400
	Tenant dwelling	P	Section 5-602 (A) & (C)
	Tenant dwelling	S	Section 5-602 (B) & (C)
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Convent, monastery, or seminary	S	
	Guest house	P	Section 5-612
	Orphanage or similar institution	S	
AGRICULTURAL USES			
Agriculture (agronomy, aquaculture, biotechnical agriculture (including educational park for biotechnical agriculture, or a demonstration farm) forestry, fishery and honey production)	General Use Category	P	
Horticulture (production of Christmas trees, field grown crops, specialty crops, flowers, fruit, nursery stock, nuts, ornamental plants, produce or fruit grown from genetically engineered organisms, sod, vegetables and wine grapes)	General Use Category	P	
Animal Husbandry (raising and production of bison, cattle (Beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep))	General Use Category	P	
	Equestrian facility, on lots of fifty (50) acres or more, with frontage on a state maintained road	P	

TR-3 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	TR-3	Performance Standards
	Equestrian facility, on lots of less than fifty (50) acres or without frontage on a state maintained road	S	
	Stable, neighborhood on lots of twenty five (25) acres or more, with frontage on a state maintained road	P	
	Stable, neighborhood on lots less than twenty five (25) acres, or without frontage on a state maintained road	S	
	Stable, private	P	
Agriculture Support and Services Related to Basic Agriculture, Horticulture and Animal Husbandry			
	Mill, feed and farm supply center	P	
	Nursery, production, with frontage on a state maintained road	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet farm	P	
	Sawmill	S	
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609 (A)
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Airport	S	
	Bus shelter	P	
	Cemetery, mausoleum, or memorial park	S	
	Crematorium	S	
	Community center	S	

TR-3 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-3	Performance Standards
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with less than 50 spaces	P	
	Fairgrounds	S	
Education	School, private elementary or middle, for less than fifteen (15) pupils	P	
	School, public (elementary, middle and high)	S	
Health Services	Hospital	S	Section 5-610
	Office, medical (NEW)	P	
	Medical care facility, outpatient (NEW)	S	
Recreation and Entertainment	Arboretum	S	
	Camp, day and boarding	S	
	Country club	S	
	Golf course	P	
	Nature preserve, such as but not limited to, wildlife sanctuary, conservation areas, and game preserve	P	
	Playing fields and courts, lighted	S	
	Private club or lodge	S	
	Public or private community or regional park	S	
	Public or private playground, or neighborhood park	P	
	Recreation establishment, outdoor	S	
	Trail or path for bicycling or walking (NEW)	P	

TR-3 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	TR-3	Performance Standards
Religious Assembly	Church, synagogue and temple	S	
Public Safety	Fire and/or rescue station	S	
	Police Station	S	
Utility	Public utility service center and storage yard	S	
	Recycling drop off collection center, large	S	Section 5-607
	Recycling drop off collection center, small	P	Section 5-607
	Sewage treatment plant	S	
	Sewage pumping station ²²	P	
	Utility substation, dedicated	P	
	Utility substation, distribution	S	Section 5-616
	Utility substation, transmission	S	Section 5-616
	Utility transmission lines, overhead	S	
	Water pumping station	P	
	Water storage tank	S	
	Water treatment plant	S	
COMMERCIAL USES			
Animal Service	Animal hospital	S	
	Kennel	S	Section 5-606
	Veterinary service	S	
Food and Beverage	Restaurant (NEW)	S	

²² Changed from “sewer” pumping station to “sewage” pumping station

TR-3 DISTRICT: TABLE OF ALLOWED USES
P = PERMITTED S = SPECIAL EXCEPTION

USE CATEGORY	USE TYPE	TR-3	Performance Standards
	Restaurant, carry-out only (NEW)	S	
Office			
	Educational or research facility related to uses permitted in this district	S	
	Rural agricultural corporate retreat	P	Section 5-619
Retail Sales and Service	Auction house	S	
	Farm machinery sales and service	P	Section 5-615
	Farm market	S	Section 5-603
	Home service establishment (NEW)	S	
	Nursery, commercial	S	Section 5-605
	Retail sales establishment (NEW)	S	
	Small business	P or S	Section 5-614
	Wayside stand	P	Section 5-604
Visitor Accommodation	Bed and breakfast homestay	P	Section 5-601(A)
	Bed and breakfast inn	S	Section 5-601(B)
	Country inn	S	Section 5-601(C)
	Guest farm or ranch, leasing four (4) to twenty (20) guest rooms	S	
	Guest farm or ranch, leasing no more than three (3) guest rooms	P	
	Rural resort	S	Section 5-601

TR-3 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-3	Performance Standards
	Rural retreat	S	Section 5-601(D)
INDUSTRIAL USES			
Manufacturing	Agricultural processing facilities such as abattoir, cannery, grain mill, and the like	S	
	Borrow pit for construction	S	
	Extraction of sedimentary rock	S	
	Vegetative waste composting facility	S	
	Yard waste composting	S	
Telecommunication Facilities	Radio and/or television tower	S	
	Telecommunications antenna	S	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)
	Testing station	S	

(d) Lot and Building Requirements

This section includes development standards regarding lot size (maximum and minimum), lot dimensions, required yards, lot coverage (where appropriate), and building height. The standards will be developed for clustered residential development, nonresidential development and agricultural development. It will account for the conservation design requirements outlined in Section IV and be placed in a table in this section.

(e) Cluster and Open Space Requirements

Refer to new mandatory cluster development requirements discussed previously in the TR-10 district (Section III.B.2).

(f) Transportation and Utility Requirements

This section presents in tabular form the type of utilities provided or required by the County to support development within each sub-area/drainage basin where the TR-3 district is applied.

Sub-Area	Utilities
Upper Broad Run	Public water & sewer in accordance with utility phasing plan
Upper Foley	Public water & sewer in accordance with utility phasing plan
Lower Foley	Public water & sewer

This section also addresses roadway and access issues in the zoning district, such as access off arterial or major collector roads and required road improvements.

3) TR-1 (Transitional Residential –1)

SUMMARY OF CONTENTS:

SEC. 2A-300 TR-1 (TRANSITIONAL RESIDENTIAL – 1)

Sec. 2A-301 Purpose

Sec. 2A-302 Applicability

Sec. 2A-303 Allowed Uses

Sec. 2A-304 Lot and Building Requirements

Sec. 2A-305 Cluster Requirements

Sec. 2A-306 Transportation and Utility Requirements

Sec. 2A-307 Other Special Requirements

(a) Purpose

This section presents the purpose and intent of the new TR-1 zoning district. As with the other two transition districts, the purpose and intent statement includes language to carry out the intent of all zoning districts in the Transition Policy Area (i.e., create a visual/spatial transition between the eastern suburban area and the western rural area of the County, achieve a blend of rural and suburban development, protect and integrate open space). Similarly, the purpose statement notes the County's intent concerning mandatory, clustered residential development with the protection of open space.

(b) Applicability

This new section spells out that the TR-1 district applies to all lands designated TR-1 district in the Upper Broad Run, Upper Foley, and Lower Foley sub-areas.

(c) *Allowed Uses*

A use table for both “permitted” and “special exception” uses is provided in this section. The CR-1 district uses serve as a starting point for the uses in this district. However, additional nonresidential uses are added to reflect *Revised General Plan* policy direction (Land Use Policies 18 and 26). They include:

- Equestrian centers,
- Golf courses,
- Active recreation,
- Kennels,
- Retail nurseries,
- Similar commercial uses, and
- Schools, related institutional uses, small-scale home occupations, and small businesses.

As with the use tables for the other new districts, this use table serves as a starting point for discussion purposes about the proposed uses. Additional public input is needed about which of these uses is appropriate and whether additional uses need to be added before a final list of uses is developed.

TR-1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-1	Performance Standards
RESIDENTIAL USES			
Household Living	Accessory apartment or dwelling unit	P	Section 5-613
	Dwelling, single-family detached	P	
	Home occupation	P	Section 5-400
	Tenant dwelling	P	Section 5-602 (A) & (C)
	Tenant dwelling	S	Section 5-602 (B) & (C)
Group Living	Congregate housing facility	S	
	Continuing care facility	S	
	Guest house	P	Section 5-612
	Orphanage or similar institution	S	

TR-1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-1	Performance Standards
AGRICULTURAL USES			
Agriculture (agronomy, aquaculture, biotechnical agriculture (including educational park for biotechnical agriculture, or a demonstration farm) forestry, fishery and honey production)	General Use Category	P	
Horticulture (production of Christmas trees, field grown crops, specialty crops, flowers, fruit, nursery stock, nuts, ornamental plants, produce or fruit grown from genetically engineered organisms, sod, vegetables and wine grapes)	General Use Category	P	
	Nursery, production, with frontage on a state maintained road	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
Animal Husbandry (raising and production of bison, cattle (Beef and dairy), ducks, emus, horses, goats, llama, poultry and sheep)			
	Stable, neighborhood on greater than twenty five (25) acres, with frontage on a state maintained road	P	
	Stable, neighborhood on less than twenty five (25) acres, or without frontage on a state maintained road	S	
	Stable, private	P	
Agriculture Support and Services Related to Basic Agriculture, Horticulture and Animal Husbandry	Pet farm	P	
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609 (A)
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Bus shelter	P	
	Cemetery, mausoleum, or memorial park	S	
	Crematorium	S	

TR-1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-1	Performance Standards
	Community center	S	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with less than 50 spaces	P	
	Library	S	
	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
Education	School, private elementary or middle, for less than fifteen (15) pupils	P	
	School, public (elementary, middle and high)	P	
Health Services	Hospital	S	Section 5-610
	Office, medical (NEW)	P	
	Medical care facility, outpatient (NEW)	S	
Recreation and Entertainment	Camp, day and boarding	S	
	Country club	S	
	Golf course	S	
	Nature preserve, such as but not limited to, wildlife sanctuary, conservation areas, and game preserve	P	
	Playing fields and courts, lighted	S	
	Private club or lodge	S	
	Public or private community or regional park	S	
	Public or private playground, or neighborhood park	P	
	Recreation establishment, outdoor	S	

TR-1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-1	Performance Standards
	Trail or path for bicycling or walking (NEW)	P	
Religious Assembly	Church, synagogue and temple	S	
Public Safety	Fire and/or rescue station	S	
	Police Station	S	
Utility	Public utility service center and storage yard	S	
	Recycling drop off collection center, large	S	Section 5-607
	Recycling drop off collection center, small	P	Section 5-607
	Sewage treatment plant	S	
	Sewage pumping station	P	
	Utility substation, dedicated	P	
	Utility substation, distribution	S	Section 5-616
	Utility substation, transmission	S	Section 5-616
	Utility transmission line, overhead	S	
	Water pumping station	P	
	Water treatment plant	S	
COMMERCIAL USES			
Animal Service	Animal hospital	S	
	Kennel	S	Section 5-606
	Veterinary service	S	
Food and Beverage	Restaurant (NEW)	S	

TR-1 DISTRICT: TABLE OF ALLOWED USES P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	TR-1	Performance Standards
Office			
	Office, professional (NEW)	S	Less than 6,000 square feet
Retail Sales and Service	Nursery, commercial	S	Section 5-605
	Small business	S	Section 5-614
	Wayside stand, when located on a parcel ten (10) acres or greater	P	Section 5-604
Visitor Accommodation	Bed and breakfast homestay	P	Section 5-601(A)
	Bed and breakfast inn	S	Section 5-601(B)
	Country inn	S	Section 5-601(C)
INDUSTRIAL USES			
Telecommunication Facilities	Radio and/or television tower	S	
	Telecommunications antenna	P	Section 5-618(A)
	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)

(d) Lot and Building Requirements

This section includes development standards regarding lot size (maximum and minimum), lot dimensions, required yards, lot coverage (where appropriate), and building height. The standards will be developed for clustered residential development, nonresidential development and agricultural activities. It will account for the conservation design requirements outlined in Section IV and be placed in a table.

(e) *Cluster Requirements*

Refer to the proposed mandatory cluster requirements provisions previously discussed in Section III.B.2 for the TR-10 district.

(f) *Transportation and Utility Requirements*

This section presents in tabular form the type of utilities that are provided or required by the County to support development within each drainage basin where the TR-1 district will be used.

Sub-Area	Utilities
Upper Broad Run	Public water & sewer in accordance with utility phasing plan
Upper Foley	Public water & sewer in accordance with utility phasing plan
Lower Foley	Public water & sewer

Like the other two TR districts, this section also identifies any special roadway or access standards.

(g) *Other Special Requirements*

Any other special development requirements for the new TR-1 district are included in this final section of the district provisions. Similar to CR-1, such provisions may relate to requirements for underground utilities or setbacks/access in relation to major roads.

D. Lower Bull Run Sub-Area

The Lower Bull Run sub-area is the southernmost sub-area. It is adjacent to Fairfax County on the east and Prince William County on the west. Lower Bull Run itself is the western boundary of the sub-area (See Figure 9).

For the most part, the Lower Bull Run sub-area is zoned A-3. (A quarry zoned MR-HI is located in the southern tip of the sub-area). The *Revised General Plan* mandates clustered development in the sub-area with 70% open lands, served by central utilities. The *Revised General Plan* policies state:

POLICIES FOR LOWER BULL RUN	
General Policies (Plan, at 8-2 to 8-4)	
3.	Central utilities may be extended to the Lower Foley and Lower Bull Run sub-areas.
Land Use Policies (Plan, at 8-6 to 8-9)	
7.	The Lower Bull Run sub-area is planned for 1 dwelling unit per three acres. The County will provide the option to re-zone to a Rural Village with a density of one dwelling unit per three acres in accordance with the 1993 Zoning Ordinance. Development will be clustered to maintain a minimum of 70% of a site as open space. Density transfer to the Lower Foley sub-area is encouraged in accordance with the Density Transfer Guidelines of this Plan.
8.	The design guidelines for the Lower Sycolin, Middle Goose and Lower Bull Run sub-areas will incorporate the design criteria for Rural Villages in the existing <i>1993 Zoning Ordinance</i> , to foster

POLICIES FOR LOWER BULL RUN

developments in the character of Rural Villages.

27. The County will protect the Bull Run Quarry in the Lower Bull Run sub-area and the Luck Stone Quarry in the Lower Sycolin sub-area from incompatible uses by ensuring that encroaching new development does not hinder the quarry operation.

The following three amendments should be implemented in Lower Bull Run to achieve the policy direction of the *Revised General Plan*:

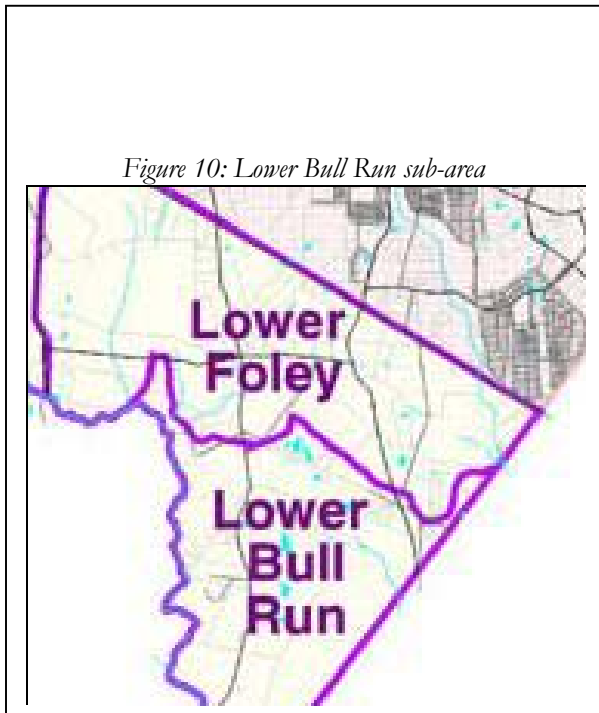


Figure 10: Lower Bull Run sub-area

- Remap the existing A-3 district lands to the new TR-3 district described above in Section III.C.2;
- Require mandatory cluster development with retention of 70% open space consistent with the standards spelled out in Section III.B.2 (f); and
- Allow the rezoning of land to the revised PD-RV (Planned Development – Rural Village) District as described in Section III.E.

E. PD-CV (Planned Development - Countryside Village) District

Because of their strategic location to the south/southwest of the Suburban Policy Area, central utilities are either already available or will be provided by the County to the Upper Broad Run, Upper Foley and Lower Foley sub-areas in accordance with a utility phasing plan. The *Revised General Plan* contemplates a new type of higher density, pedestrian-friendly, mixed-use village – Countryside Village – in these 3 sub-areas as a rezoning option.

The *Revised General Plan* seeks to foster rural villages that are organized around a central core, exhibit a sense of place and community identity, and include an integrated mix of residential and nonresidential uses.

The *Revised General Plan* policies related to the PD-CV (Planned Development -Countryside Village) District state:

TRANSITION POLICY AREA POLICIES FOR COUNTRYSIDE VILLAGES	
Land Use Policies (Plan at 8-6 to 8-9)	
6.	In the Lower Foley sub-area, densities up to two dwelling units per acre can be developed in Countryside Villages, with a minimum of 50% of the site maintained as open space when utilities are extended into these areas based on the utility phasing plan. With density transfer from the Lower Bull Run Sub-area, up to 3 dwelling units per acre may be possible.
10.	Residential Clusters and Villages will be developed with specific design criteria that help to form open space (which may include active and passive recreation) surrounding the residential development. Refer to the Design Guidelines contained in Chapter 10.
19.	Villages exceeding 100 dwelling units should provide a community core that will serve as the focal point within the development.
20.	The community core can vary in scale, design, and use depending on the scale of the community it serves. The total area dedicated to the non-residential uses shall not exceed 3 percent of the area of the proposed development. The following location and design criteria apply. <ul style="list-style-type: none"> a. A Village Core is intended to create a sense of place and identity for the community. b. A Village Core is intended to be a compact grouping of residential, business, commercial retail and service and civic uses providing convenience goods and services to residents in adjoining neighborhoods.
22.	The County will require a variety of housing types and lot sizes in the Villages, such as single family, multi-family, and townhouse units.
23.	Civic and institutional uses will constitute the predominant component of the non-residential uses within the Villages. Office and commercial retail uses will be permitted at scales necessary to foster a self-sustaining community. Cores will not develop as destination retail centers.
24.	Civic uses that are appropriate within Villages include houses of worship, community centers, elementary schools, government human services offices, and facilities such as senior cafés, branch libraries and similar uses. In addition, the following location criteria apply: <ul style="list-style-type: none"> a. Civic uses should be located at prominent locations within the core such as the end of a street or street intersection. b. Parking, signs, lighting, and loading areas must be located and designed to have minimal undesirable impact on surrounding areas and ensure that the standards and environmental impacts on surrounding areas conform to County requirements. c. The scale of civic uses must be compatible with the residential and pedestrian nature of the surrounding village. Large-scale civic or institutional uses requiring more than 15 buildable acres, either individually or in a multipurpose facility, should be located on the periphery of an individual neighborhood or in core areas on roads that can accommodate the anticipated traffic volume.

TRANSITION POLICY AREA POLICIES FOR COUNTRYSIDE VILLAGES

25. Open space such as natural areas, tot lots, athletic fields, parks and greens should generally be dispersed in Villages so that they are conveniently located to most people. In addition the following location criteria apply:

- a. Athletic fields should be located, where practical, along collector roads and should be buffered from adjoining residences, although trails or sidewalks should provide a connection with the neighborhood.
- b. Greens and other maintained, passive parks should serve both a recreational and a design function. They should be located in high-visibility areas or in conjunction with civic uses such as schools, churches or community buildings and neighborhood commercial centers where the green can serve as either a "mall" for the center or as a buffer for adjoining homes.

Location Policies (Plan, at 8-9 and 8-10)

1. Development within Villages should be located on areas of the site that afford the least disruption of natural views of the rural landscape.

2. Villages located within 500 feet of archaeological and historic sites and scenic byways will be reviewed for compatibility with the existing landscape.

3. Villages should be designed so that open space surrounding the developments augment or enhance the Green Infrastructure.

This report presents the key provisions and features of this new PD-CV (Planned Development – Countryside Village). It is based on a modified version of the existing PD-RV (Planned Development – Rural Village) regulations. It uses some of the language and reorganizes the general format of Section 4-1200, PD-RV (Planned Development – Rural Village), to create a new planned development district applicable to countryside villages. Additionally, the Transition Policy Area Design Guidelines included in Chapter 10 of the *Revised General Plan* direct this work.

The overall organizational structure of the district's language moves from the broad, general requirements to detailed design and development standards.

SUMMARY OF CONTENTS:

SEC. 4-1400 PD-CV DISTRICT

Sec. 4-1401 Purpose

Sec. 4-1402 Applicability

Sec. 4-1403 Size and Location Criteria

Sec. 4-1404 Land Use Elements, Mix, and Arrangement

Sec. 4-1405 Allowed Uses

Sec. 4-1406 Allowed Density and Open Space Requirements

Sec. 4-1407 Development Standards

Sec. 4-1408 Design Standards
Sec. 4-1409 Transportation Requirements
Sec. 4-1410 Utility Requirements
Sec. 4-1411 Village Governance

1) Purpose

This section establishes the purpose and intent of the PD-RV district. Similar to Section 4-1201 of the zoning ordinance, these provisions include a listing of goals and objectives the County seeks to achieve through the development of countryside villages. This statement also includes language that reflects the general intent of all zoning districts in the Transition Policy Area (i.e., create a visual/spatial transition, ensure a blend of rural and suburban development, protect and integrate open space) as well as specific wording to clearly indicate the County's intent with regard to the development of countryside villages.

This section also incorporates language clearly specifying approval of rezoning requests to establish the PD-RV district is dependent upon the applicant's ability to illustrate that the Concept Development Plan (CDP) submitted during the rezoning presents an acceptable mix of residential housing types and lot sizes; appropriate civic uses and services; is compatible with surrounding existing neighborhoods; and meets all other community design goals and policies.

2) Applicability

This section spells out that the PD-CV district is available only for landowner-initiated rezonings in the Upper Foley, Lower Foley and Upper Broad Run sub-areas of the Transition Policy Area.

3) Size and Location Criteria

This section establishes requirements for the minimum area (acres) and size (total number of units) of countryside villages for all PD-CV district requests. It is recommended that countryside villages be at least 1000 acres in size and be able to include 1000 or more dwelling units. Such a threshold allows sufficient development potential to support active, viable nonresidential land uses in the village.

Location criteria is also included to make it clear that villages should be located on portions of the site that least disrupt views of the rural landscape (assessed during application of the conservation design process). Additionally, language will note that those countryside villages in proximity to archaeological and historic sites, as well as scenic byways, be evaluated for compatibility with such features.

4) Land Use Elements, Mix, Arrangement and Design

Instead of the rather confusing mix and hierarchy of sub-districts now employed in the Rural Village district (i.e., conservancy, satellite conservancy, and village center with its residential, commercial, and workplace areas), it is recommended there be only two component parts or

sub-districts of a countryside village. These include the main “village core” and the surrounding “village conservancy” areas as spelled out in the *Revised General Plan*.

Eliminating the various sub-districts now intended to constitute the village ensures that a countryside village more closely meets the County’s intent to mix uses rather than create separations among them. The purpose and intent of each of the two proposed sub-districts is outlined in this next subsection of the regulations. Many of the same guidelines now included in the PD-RV district are reorganized, consolidated and appropriately modified to provide the basis for this district’s provisions.

(a) *Land Use Elements*

(i) *Village Core*

These regulations specify that the village core area should contain an integrated mix of neighborhood-serving commercial, institutional and office uses with higher density residential uses located within the central portion of the Village Core and a gradient towards lower density residential at the periphery. Language here will make it clear that civic and institutional uses are the dominant non-residential uses allowed and that village cores are not intended to serve as destination retail centers.

(ii) *Village Conservancy*

The village conservancy area will primarily surround the main village core, although some portions of the open space network within the Village Core should be counted towards the total open space requirement for a Countryside Village. This section will describe how the village conservancy is intended to function as an open space system to augment or enhance the conservation design principles.

(b) *Land Use Mix*

This next section establishes parameters for the amount and general type of uses allowed within the two sub-districts. Village Core and Village Conservancy areas shall conform to land allocation requirements. This table outlines suggested recommendations.

Countryside Village Land Allocation Requirements	
Element	Percent of Village Land Area
Village Conservancy	Minimum 50% (Inclusive of any greens, parks and squares)
Village Core	Maximum 50%
• Residential uses	No minimum or maximum
• Nonresidential uses (commercial/office)	<ul style="list-style-type: none"> • Minimum of 3% (Check Plan) • Minimum 10,000 sf per individual use • Maximum 20 acres per individual use

<ul style="list-style-type: none"> • Civic uses 	Minimum 2% ² (For purpose of applying the percentages, land designated for use as a private or public school for more than 9 children shall be excluded from these calculations as a civic use)
----------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

(c) *Land Use Arrangement and Design*

(i) *Overall Countryside Village*

This subsection describes the expected relationship between the Village Core and the Village Conservancy areas. These provisions will utilize language similar to that in Section 4-1216 to address issues such as:

- The use of natural features, where possible, to separate the Village Core from the Village Conservancy areas; or
- The way in which the Village Core is distinguished from the Village Conservancy by a well-defined "edge" between the two components of the entire village.

(ii) *Village Core*

The next subsection establishes standards for the layout and design of the Village Core, describing the pedestrian-friendly, village “feel” to be created through mixed uses and the employment of basic village design guidelines. Using guidelines from the existing regulations for PD-RV uses, objectives could include:

- Create a rectangular pattern of blocks and interconnecting streets and alleys, with roads, streets and alleys terminating on other roads and streets.
- Define spaces by buildings, street furniture, landscaping, pedestrian ways and sidewalks.
- Establish a hierarchy of parks, squares, and greens.
- Locate residential areas close to the commercial and office uses in the Village Core.
- Locate higher density residential development to provide a transition between business and residential uses.
- Include a variety of lot sizes.
- Minimize front and side yards and blank walls to encourage pedestrian movement.

- Provide parking at the rear of lots with on-street, parallel parking for additional cars and visitors.
- Design off-street parking areas, carports, and garages to minimize visual impact.
- Plant roads and streets with street trees spaced at regular intervals.

(iii) *Village Conservancy*

Finally, the last subsection in this part sets forth requirements for the design and layout of the Village Conservancy area of the entire countryside village. This language notes that the open space for a village should supplement or enhance the conservation design principles. This section will also explain that open lands surrounding the periphery of the entire development will be the primary component of the countryside village's 50% open space requirement.

5) Allowed Uses

This section of the district regulations utilizes a table to outline uses permitted in the two elements of a countryside village. In addition, as noted in the *Revised General Plan*, certain uses should meet special performance conditions or standards. This section will present allowed uses within the sub-districts as well as requirements for particular land uses. For example, the *Revised General Plan* recommends that larger or specialty retail stores or major civic uses (on lots greater than 15 acres) should be located along a major arterial or collector road at the edge of the mixed-use core. Such requirements will be included in the use table.

A preliminary use table, for discussion purposes, is outlined below. Additional public input during the review of this report is needed regarding which of these uses is appropriate and whether additional uses need to be added before a final list of uses is developed.

Allowed Uses	Village Core	Village Conservancy	Conditions
Residential			
Accessory Residential	P		Located above the first floor in nonresidential buildings; not included in calculating the maximum residential development potential ²⁶
Continuing Care Facility	P		
Home Occupation	P		
Multi-Family	P		
Single Family Attached	P		
Single Family Detached	P		
Townhouse	P		

²⁶ Existing language in PD-RV provisions

Allowed Uses	Village Core	Village Conservancy	Conditions
Retail and Office			
Artist Studio	P		
Art Gallery	P		
Bank or Financial Institution	P		No drive-through facilities
Convenience Store	P		
Grocery Store	P		Located along a major arterial or collector road
Hotel or Inn	P		
Medical/Dental Office	P		
Personal Service Establishment	P		
Professional Office	P		No more than 10,000 square feet of floor area
Pharmacy	P		
Restaurant	P		No more than ___ square feet of floor area
Civic/Institutional/Recreational*			
Bus Shelter			
Church	P		
Community Center	P		
Daycare Center	P		
Elementary School	P		
Fire and/or Rescue Station	P		
Golf Course		P	May not compose more than _% of the required village open space
Library	P		
Museum	P		
Park	P	P	
Playground	P		
Police Station	P		
Post Office	P	P	
Private Club or Lodge	P		
Recycling Drop-Off Collection Center, small	P		Section 5-607
Square or Green	P	P	
Theater	P		
Utility Substation	P	P	
Open Space			
Natural Open Space	P	P	
Sidewalk, Trail or Path	P	P	
Watershed and Water Impoundment Protection areas	P	P	

6) Allowed Density and Open Space Requirements

This section identifies the overall density of development allowed in each of the various planning sub-areas of the countryside village and the percentage of open space required in new countryside villages as defined by the *Revised General Plan*. This information will be presented in the zoning ordinance using a simple table similar to the following:

Sub-Area	Gross Residential Density		Minimum Open Space
Upper Broad Run	1.1 dwelling unit / acre		50%
Upper Foley	1.1 dwelling unit / acre		50%
Lower Foley	2.0 dwelling units/acre	3.0 dwelling units/acre, using density transfer from Lower Bull Run sub-area	50%

7) Development Standards

Zoning requirements for minimum lot sizes, dimensional standards, yards and building heights are presented in this section for the various component parts of the countryside village. The table will look somewhat like the table below, which is used for illustrative purposes only. As with the use table, the Clarion team and County invite public input as to the appropriate lot and building standards as the drafting process continues.

Lot or Building Standard	Village Core			Village Conservancy
	Residential Detached	Residential Attached	Nonresidential	
Minimum Lot Size	5,000 sf	1,600 sf	2,000 sf	10,000 sf
Minimum Lot Width	None	None	None	None
Minimum Front Yard	6 feet	6 feet	6 feet	40 feet
Maximum Front Yard	20 feet	20 feet	20 feet	None
Minimum Rear Yard	16 feet	16 feet	10 feet	35 feet
Minimum Side Yard	8 feet	6 feet	6 feet	20 feet
Maximum Lot Coverage	40%	70%	70%	NA
Maximum Floor Area Ratio	NA	NA	2.0	NA
Building Height	35 feet	50 feet	50 feet	40 feet

8) Design Standards

This section covers more detailed design requirements for features of the Village Core of the countryside village such as blocks, streets and alleys, parking, and landscaping. Again, many of the existing PD-RV provisions are utilized, with necessary modifications, to generate the language for the PD-CV zoning district:

- The Village Core should be designed in a generally rectilinear pattern of blocks and interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways and sidewalks.
- A hierarchy of parks and squares shall be distributed strategically for maximum benefit and convenience throughout the Village Core and shall include a central civic park, called the main village green.
- Village Core commercial areas shall be surrounded by the residential lots or, where applicable, by a combination of residential lots and civic areas.
- Higher density residential development should generally be located between the commercial area and lower density residential lots, providing a transition between the business and residential uses.
- Every Village Core shall be provided with a centrally located main village green. The main village green should abut the designated commercial and civic areas.
- Blocks of a generally rectangular shape should be the main organizing feature of the Village Core sub-district.
- Lot design should include a variety of sizes.
- Village Core lots should minimize front and side yards, garage aprons and entrances, and blank walls, and should generally have as narrow a width as is practical in order to encourage pedestrian movement.
- Road, street and alley layouts in the Village Core shall be designed in a hierarchical, generally rectilinear pattern with geometrical variation as required by traffic safety, environmental factors and design intentions. Village Core roads, streets and alleys should terminate on other roads and streets.
- Parking for uses in the Village Core should generally be located at the rear of lots and no off-street parking shall be permitted in front yards. Continuous parallel parking for additional cars and visitors should be provided on the streets.

- Access for off-street parking in the Village Core shall generally be achieved by means of alleys where feasible, off-street vehicular connections between adjacent parking lots and side streets.
- Off-street parking areas, carports, and garages in a Village Core should be designed to have low visibility, and should not be located at the visual termination of roads and streets and shall not be the principal use of corner lots.
- Roads and streets in Village Core should generally be planted on both sides with street trees spaced at regular intervals.

9) Transportation Requirements

A proposed Countryside Village district must demonstrate that certain transportation requirements are satisfied as part of the rezoning process. This next section is modeled after the existing requirements for rural villages (Section 4-1204) for applicability to countryside villages. It addresses the following items:

(a) External Roadway Access to Countryside Village

These provisions specify the type of external State roads and the number of access points to them that must be available to serve the planned countryside village. As with Section 4-1204, a table or list of acceptable roadways is provided.

(b) Internal Streets

This subsection establishes the functional requirements for public streets and roads within the village itself. It addresses such issues as access to other roadways, responsibility for improvements, etc.

(c) Private Street Provision, Maintenance and Disclosure

This subsection outlines the requirements for any private streets within the countryside village, including meeting the design standards of the Facilities Standards Manual (FSM), private maintenance responsibility, and disclosure of private maintenance to future buyers.

(d) Private Access Easements for Village Conservancy Area

Finally, this subsection permits the use of private access easements within the village conservancy area in accordance with the design and construction standards in the FSM.

10) Utility Requirements

The requirements for water and sewer is addressed in this section, where lots within the Village Center are required to be served by public water and wastewater collection facilities provided and constructed by the applicant and dedicated to the Loudoun County Sanitation Authority (LCSA). Lots and uses in the Village Conservancy area may be served by private water supply and sewage disposal systems.

11) Village Governance

Similar to the language in Section 4-1217 for Rural Villages, this provision will require the establishment of a homeowners association and County approval of necessary documents before first record plat approval. Such documents shall address private maintenance of village features like street trees, community landscaping, streets, stormwater management systems, and water and sewer facilities if not accepted for maintenance by the County or another public entity.

F. Changes to PD-RV (Planned Development – Rural Village) District

1) General Commentary

The existing PD-RV (Planned Development – Rural Village) District is utilized for rezonings to rural villages in several zoning districts. The *Revised General Plan* states the use of this development option meets the following planning objectives for the Lower Sycolin, Middle Goose and Lower Bull Run drainage basins of the Transition Policy Area:

1. Creates unique residential communities;
2. Promotes a transition in land development intensity between the Suburban and Rural Policy Areas; and
3. Protects open space and conservation design principles in Loudoun County.

In particular, the Plan notes that “Rural Villages with up to 300 residential units, as prescribed in the *1993 Zoning Ordinance*, are envisioned for the Lower Sycolin, Middle Goose Creek and Lower Bull Run sub-areas given their strong relationship to the Rural Policy Area and rural areas of the adjacent jurisdictions of Prince William and Fairfax.”

During development of the *Revised General Plan* and subsequent staff work on Plan implementation, a number of weaknesses and deficiencies in the PD-RV district regulations have been identified, especially related to the design criteria for Rural Villages. These hinder the establishment of rural villages in a fashion that meets the objectives of the Transition Policy Area noted above, and include such issues as:

- Insufficient minimum size of villages to yield communities viable enough to support nonresidential uses;
- Confusing elements and organizational structure for villages in existing regulations;
- Allowance for inappropriate housing types such as attached, single-family units not in keeping with village development in the County;
- Inappropriate minimum and maximum lot sizes, yard requirements, and densities;

- Unworkable design and development standards relating to blocks, alleys, roads, and bicycle lanes; and
- General lack of development flexibility.

It is apparent that the PD-RV district needs significant amendments to enable it to function as desired. However, such a comprehensive set of changes is beyond the scope of the Phase 1 mapping amendments for Loudoun County.

2) Recommendations

To respond to these concerns in Phase 1 of this project, it is recommended the following steps and changes to the PD-RV district be made as a remedy until this topic is addressed more fully in Phase 2.

Step 1. Reorganize the existing PD-RV regulations in Section 4-1200 into a new format and structure suggested in this report for the new PD-CV (Planned Development – Countryside Village) District. Some of these amendments (e.g., elimination of minimum lot sizes) are already proposed in that new district.

Step 2. Make changes to numerical and dimensional standards as follows:

- (a) Delete single-family attached housing units as an allowed use in the district;
- (b) Eliminate minimum lot sizes for residential and non-residential development;
- (c) Change the minimum density from 1.5 dwelling units/acre to 4 dwelling units/acre;
- (d) Change the maximum density from 5 dwelling units/acre to 8 dwelling units/acre;
- (e) Reduce the maximum front yard in residential areas from 30 feet to 20 feet; and
- (f) Supplement the district provisions with language from the *Revised General Plan* to strengthen and clarify the objectives that rural villages must meet.

Study both the PD-RV and PD-CV district provisions in depth for additional changes, refinements, and improvements as part of Phase 2 of the plan implementation process.

IV. Conservation Design

A. Introduction

The “conservation design process” is one of the key tools for implementing the *Revised General Plan*, particularly the Green Infrastructure policies relating to protection of environmental, natural, and heritage resources. An increasing number of jurisdictions throughout the country have embraced the principles of conservation design to protect resources and preserve open space while permitting appropriate development on a site. For example, Park City, Utah, home of the 2002 Winter Olympic Games, has had a conservation design process in place for almost a decade to protect sensitive environmental areas while accommodating compatible development. Counties in Florida have used similar processes to protect sensitive riparian ecosystems and wildlife habitats.

As discussed in greater detail below, the conservation design process has four basic steps that result in delineation of a developable area on the site and identification of areas that must be set aside to protect natural and cultural resources and open space. The areas appropriate for development under these conservation design regulations are known by different names—building envelopes, development delineation areas, and limits of disturbance—but essentially the process is as outlined below.

Conservation design is a method of land development that conserves the Green Infrastructure elements of a site while providing for development at full density credit on the remainder of the site. The *Revised General Plan* policies direct that residential and nonresidential development throughout the County be subject to the application of conservation design principles, which will be integrated into existing development review processes. This section discusses this Plan policy direction and the accompanying regulations that should be codified in the zoning and land subdivision development ordinances to implement this policy direction as well as changes in the Facilities Standards Manual. The conservation design process will result in compact development patterns that promote a variety of residential and non-residential uses and building types within a Green Infrastructure network.

Step 1: Resource Analysis/Mapping

In Step 1, the applicant, using available County mapping and other resource data, will identify significant natural and cultural resources on a site. These resources are broken down into two basic categories—primary conservation areas and secondary conservation areas. Primary conservation areas include stream corridors, limestone areas, steep slopes, and certain mountain ecosystems. Secondary areas include, among others, prime agricultural lands, wildlife habitat, historic buildings, and archeological sites. The applicant would also produce mapping showing resources and open space on neighboring parcels.

Step 2: Site Visit

In Step 2, the County staff, accompanied by the applicant, visits the proposed development site to see first hand where resources exist and to understand the lay of the land and what

areas might be suitable for residential, nonresidential, and agricultural development. The relationship to surrounding parcels will also be examined.

Step 3: Delineation of Conservation and Development Areas

In Step 3, the applicant will produce a map that depicts generally, primary and secondary conservation resources and open space, as well as areas suitable for development.

Step 4: Submission of Conservation Design Plan

In Step 4, based on the resource analysis, site visit, and application of relevant zoning ordinance and other County development regulations relating to open space and resource protection, the applicant would submit a conservation design plan showing primary and secondary conservation areas and open space on the site. Areas suitable for development would be specifically delineated as well as other areas that would be disturbed for accessory structures and uses, septic fields, roads, trails, and utilities. Where applicable, lot lines would be shown on the conservation design plan. The full development density/intensity permitted by the underlying zoning district would be allowed within the development delineation area. In the AR-1 and AR-2 districts, when the residential cluster option is selected as the desired form of development, rural economic uses would be allowed within secondary conservation areas (See Section II.D.2 (vi)). The conservation design plan would be used by the applicant in preparing more detailed preliminary subdivision plans and site plans now required under the County zoning and subdivision ordinances.

By relating the site's resources to resources and open space on surrounding parcels, and by working to "design around" each property's most significant features, the County's ultimate goals of protecting the green infrastructure and providing an integrated network of linked open spaces can be equitably achieved, while also providing full density to applicants and full value to landowners. In delineating the open space and the areas to remain undisturbed, the applicant, working closely with County staff, would apply a series of objective standards set forth in the zoning ordinance. Some of the resources would be afforded greater protection than others. For example, primary conservation areas such as steep slopes and stream corridors would be protected by specific regulations and standards in the zoning ordinance. (Note: Draft regulations covering steep slopes, stream corridors, limestone areas, and mountain ecosystems prepared by the consulting team in consultation with the County staff are also submitted to the County for review.)

Other portions of a site's features that contain secondary resources such as prime agricultural land and scenic views, and that could be at least partially preserved would be protected to the maximum extent practicable while allowing development to proceed. In the AR-1 and AR-2 districts when the residential cluster option is selected as the desired form of development, rural economic uses would be encouraged within the secondary conservation areas. (See discussion of residential cluster option in Section II.D.2 (vi).) Protection would be afforded in large part by including all or parts of these secondary conservation areas in the open space set asides that will be required in each zoning district as recommended in the *Revised General Plan* (e.g., 70% of sites in the proposed AR-1 district under the cluster development option will be set aside as private or public open space; 10% in more intense

urban industrial zoning districts). Again, in the AR-1 and AR-2 districts under the residential cluster option this protection would be subject to the proviso that rural economic uses will be allowed in portions of the secondary conservation areas and open space to permit the parcel to develop to its full potential allowed by the underlying zoning district, even with “conservation design.”

While the basic conservation design process will be applied uniformly throughout the County, the resulting development patterns and open space set asides will vary depending on the location and zoning of the land. For example, a larger percentage of a site would be set aside for open space and resource protection in the AR-1 and AR-2 districts compared to more urban areas in the eastern part of the County. And in the AR-1 and AR-2 districts, special consideration will be given to accommodating rural economic uses in a compatible fashion with open space and secondary conservation areas. In either case, full density/intensity credit would be permitted on the developed portion of the site.

Primary/Secondary Conservation Areas and Open Space Set Asides

As the introduction to this section on conservation design makes clear, the primary and secondary conservation areas and open space set-asides are closely intertwined with application of the conservation design process. Protection of primary conservation areas is paramount in the conservation design process. Secondary conservation areas are addressed in the conservation design process but in a more flexible fashion as noted above as part of open space set asides that will be required in each zoning district. This section discusses what constitutes the primary conservation areas and the secondary conservation areas on a site, as well as how the primary/secondary conservation area will relate to the open space set-asides.

As discussed in detail in the *Revised General Plan*, primary conservation areas include:

- River and stream corridors (including public water reservoirs);
- Steep slopes (slopes greater than 25%);
- Mountain ecosystem sensitive areas (defined through a combination of elevation, soils, slopes, and forest cover); and
- Limestone/karst areas.

The *Revised General Plan* calls for drafting new zoning overlay districts and environmental protection standards to conserve these resources. The consulting team, in consultation with staff, has completed drafts of these new regulations and submitted them to the County for review. The overlay districts covering river and stream corridors (RSCOD), mountain ecosystems (Mountain Development Overlay District-MDOD), and limestone/karst areas (Limestone Overlay District-LOD) and County wide steep slope protection regulations will be applied through the conservation design process. The conservation design process will not be a new, stand-alone procedure but will be integrated into existing development reviews such as subdivision and site plan review. Application of these standards and regulations in the conservation design process will result in the identification of primary conservation resources where development will be restricted to protect these important areas.

Secondary conservation areas include, among others:

- Prime agricultural lands;
- Mineral resource extraction areas;
- Historic and archeological resources;
- Forest, trees, and vegetation;
- Plant and wildlife habitats (including associated wetlands);
- Scenic corridors and views;
- Greenways and trails; and
- Parks and recreation areas.

During Phase I of this plan implementation effort, we recommend that secondary conservation areas not be the subject of specific regulations in the zoning ordinance such as those applied to primary conservation areas. Instead, they would be protected through conservation design primarily as part of the process by which a predetermined percentage of open space is set aside on each site to comply with zone district regulations. We suggest that applicants delineate open space in a fashion that helps protect at least three types of secondary resources chosen from the list above, unless only one or two are found on the site. In the AR-1 and AR-2 districts under the residential cluster option, protection of secondary conservation areas will have to be coordinated carefully with permitted rural economic uses in the open space. An explanation of how this is proposed to be coordinated is found in the discussion on the residential cluster option in Section II.D.2 (vi).

Open space set asides are the third leg of the conservation design stool. The *Revised General Plan* emphasizes the importance of setting aside open space, either public or private, on each parcel of land in the County to protect resources and create a connected, integrated network of Green Infrastructure throughout the County. The following table, drawn from the *Revised General Plan*, summarizes the open space set aside recommendations:

Open Space Set Aside Requirements	
Zone District	Minimum Percent Open Space Set Aside
Rural Policy Area	
AR-2	N/A
AR-2, with Cluster Option	85%
AR-1	N/A
AR-1 with Cluster Option	70%
RVC District	10%

Open Space Set Aside Requirements	
Zone District	Minimum Percent Open Space Set Aside
RC District	10%
CR-1	30%
CR-2	30%
CR-3	30%
CR-4	30%
Transition Policy Area	
TR-10, with Cluster	70%
TR-3, with Cluster	50%/70%
TR-1, with Cluster	50%
PD-CR (Transition Policy Area)	50%
PD-RV (Transition Policy Area)	80%
JLMAs	
JLMA-3	50%
JLMA-1	30%
Suburban Policy Area (Note: Per the Revised General Plan, in Suburban Zone Districts, land set aside to comply with the River and Stream Conservation Overlay District requirements will be allowed to satisfy no more than 50% of the open space requirement set forth below.	
R-1 Single Family Residential	30%
R-2 Single Family Residential	30%
R-3 Single Family Residential	30%
R-4 Single Family Residential	30%
R-8 Single Family Residential	30%
Townhouse Multi-family Residential	30%
R-24 Multifamily Residential	30%
GB General Business	10%
CLI Commercial Light Industry	10%
MR-HI Min. Residential Heavy Industry	10%
PD-OP Office Park	10%

Open Space Set Aside Requirements	
Zone District	Minimum Percent Open Space Set Aside
PD-RDF Residential Development Park	15%
PD-IP Industrial Park	10%
PD-GI General Industry	10%
PD-SA Special Activity	
PD-TC Town Center	10%
PD-TT Traditional Town	10%
PD-UC Urban Center	10%
PD-TRC	10%
PD-TREC	15%
PD-MX Business	10%
PD AAAR Active Adult/Age Restricted	50%

These open space set aside requirements will be satisfied during the conservation design process. As provided in the *Revised General Plan*, in locating the open space required in the conservation design of a rural cluster, the following site features will be considered to ensure that the land kept in open space provides for appropriate rural economy uses:

- Percent of open space area that is made up of prime agricultural soils;
- Size of the area that is usable for agricultural production;
- Contiguity of open space area to other designated open space or agricultural land;
- Relationship of development of adjacent properties on the agricultural activity on the open space area;
- Relationship of non-agricultural use of the open space area on adjacent agricultural uses; and
- Unique site features and Green Infrastructure implementation.

In all districts except those in the Suburban Policy Area, lands set aside for protection of primary conservation resources will be credited 100% against the required open space. In the Suburban Policy Areas, these lands will also garner 100% credit except for river and stream corridors under RSCOD. As discussed in the *Revised General Plan*, the credit for these buffers cannot exceed 50% of the total open space set aside required in the zone district regulations.

As a hypothetical example, assume a 100-acre development parcel in the AR-1 district in the western portion of the County. The zoning allows 5 houses to be built on the property (1 unit/20 acres) under the conventional arrangement, or 10 units if the residential cluster development option is pursued. If the landowner decides to pursue the residential cluster

development option, the open space set aside requirement would be 70 acres. The applicant and County staff, as part of the conservation design process, would first identify the primary conservation resources on the site that are required to be protected (e.g., a stream corridor or steep slopes). Assume that these primary conservation areas amount to 30 acres. In the rural AR-1 district, the applicant would get a credit of 100% towards the open space requirement for protecting these primary resources, or 30 acres. This would leave 40 acres of the open space requirement still to be fulfilled and a total of 30 acres available for development. The 40 acres of open space requirement remaining would be configured on the site by the applicant in a way to best protect the most significant secondary conservation resources—wildlife habitat, prime agricultural lands, etc. Rural economic uses would be encouraged in the open space outside the primary conservation areas. The resulting property configuration and use allocation looks like this:

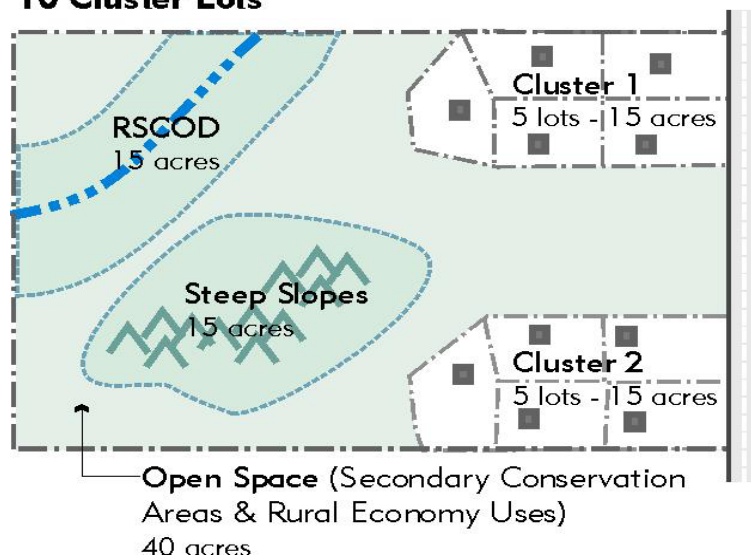
Developable area—30 acres for 10 dwelling units (underlying density is, in effect, transferred from the conservation areas and open space on a full 1:1 basis).

Primary conservation area— 30 acres, of which 100% is credited towards the open space requirement.

Open space set aside— 40 additional acres with priority given to secondary conservation areas (in addition to the 30 acre primary conservation area set aside). Compatible rural economic uses would be allowed on the secondary conservation area of the open space lands. The rural economy uses would be located and designed to protect secondary conservation areas to the maximum extent practicable.

HYPOTHETICAL EXAMPLE ILLUSTRATION

100 acre Parcel in AR-1 District 70% Open Space Requirement 10 Cluster Lots



B. Applicability/Exemptions

The conservation design process would apply to most new development as set forth below. The one exception would be for a single-family home on an existing legal lot of record. We recommend that existing subdivisions that have been granted preliminary approval not be required to comply with conservation design (See discussion of vested rights in Section V).

Commentary: The Revised General Plan recommends applying the conservation design process to all new development. With regard to residential development on existing legal lots, the County has several options to consider. Some jurisdictions apply conservation design principles and resource protection regulations to all new developments, including building of a single-family home on an existing lot of record. The advantage of such an approach is that it helps ensure that resources are protected to the maximum extent under the new regulations, thus helping to accomplish the goals of the Revised General Plan. The disadvantages include significant demands on staff time as they are required to review every application for a building permit for a new home, not just new subdivisions. Applying new procedures and regulations to existing single-family lots can also engender significant political opposition by small-lot owners who purchased their property anticipating being able to develop under current regulations. Moreover, some lots may be “grandfathered” in by proffered subdivision agreements that limit the applicability of new regulations.

After discussing the issue with staff and legal counsel, we recommend a middle-of-the-road approach, that is, the new procedures and regulations should not be applied in a rigorous, mandatory fashion to single-family residential homes proposed to be built on legal, existing lots. Instead, we recommend that they be exempt from the conservation design process. However, new resource protection regulations (steep slopes, stream and river buffer requirements, etc.) should be applied to protect resources to the maximum extent practicable while still allowing a home to be built on the lot. Staff would work in an advisory capacity with homeowners seeking building permits (who must also secure a zoning permit at that point) to locate the house to avoid damaging all primary resources and disturbing secondary resources whenever possible. However, the owner would be assured that a home could be built despite the impact of the new standards.

An alternative approach would be for the County to apply the conservation design process only to larger existing residential lots—for example, 10 acres or more—in the western, AR-1 and AR-2 districts. Because of their larger size, it would be easier to apply the conservation design process to such parcels, which would be more apt to contain secondary resources than smaller lots in suburban areas.

Subdivisions: All new subdivisions (including those of 5 or fewer lots) would be required to adhere to the conservation design process and applicable resource protection standards as part of the normal subdivision review process. Existing approved subdivisions (including those with proffered subdivision agreements) and those with preliminary plan approval would be exempt.

Single-Family Home On Approved Lot: As discussed above in the Commentary, applications for permits to build a single-family home on a legal, existing lot would be exempt from complying with the full conservation design process. While an applicant would have a right to build a home on an existing legal lot, to the maximum extent practicable, new

zoning ordinance provisions relating to protection of steep slopes and other primary conservation resources would be applied. County staff would work with applicants and offer advice to them on how to locate the home on the lot with the least amount of disturbance to primary resources. Existing legal lots in subdivisions with proffered subdivision agreements would be completely exempt from the conservation design process and new resource protection regulations.

Non-Residential Developments. All non-residential developments currently required to secure site plan approval pursuant to Section 12.44.01 of the LSDO would be subject to the conservation design process. This would include, for example, commercial and industrial development, unless they were exempt due to the existence of proffered development agreements. Developments within the Route 28 Highway Transportation Improvement District would also be exempt from the conservation design process.

Rezoning Applications And Other Discretionary Legislative Reviews. The County is already applying conservation design principles to rezoning requests as recommended in the *Revised General Plan*. The four-step conservation design process would continue to be applicable to all future rezoning applications and other development applications involving legislative review and approval by the Board of Supervisors.

C. Relationship To Existing Development Review Processes

One of the County's primary goals is to integrate the conservation design process into existing development review procedures as seamlessly as possible without adding substantial amounts of time to the review process or duplicating submittal and other requirements. This will be accomplished by carefully coordinating conservation design with current subdivision and site plan requirements and utilizing conservation design as an integral part of any legislative review such as a rezoning.

To fully implement the conservation design process and to ensure that development reviews are carried out expeditiously, it is likely that additional County staff will be necessary. Conservation design, particularly because of the necessity of a site visit for most new development applications, is labor intensive. Moreover, application of new resource protection standards will require more careful plan review. Experience in other jurisdictions demonstrates that adequate staffing will be a key ingredient if conservation design is to be successful.

Set forth below are recommended changes to the County Zoning Ordinance, Land Subdivision and Development Ordinance, and the Facilities Standards Manual.

Zoning Ordinance: We recommend that the County insert the conservation design process as a new subsection of the zoning ordinance and then integrate the procedure in the Land Subdivision and Development Ordinance and Facilities Standards Manual. Protective regulations for primary and secondary conservation areas to be applied in the conservation

design process would also be included in the revised zoning ordinance. The basic elements of the conservation design process should be added to Article VI of the Zoning Ordinance, Development Process and Administration (additional detail might be spelled out in the Facilities Standards Manual). The new/revised resource protection regulations would be placed either in Article IV, Division C—Environmental Impact Districts (River and Stream Corridor Overlay District, Mountainside Development Overlay District, and Limestone Overlay District) or in Article V, Additional Regulations and Standards, Division E—Performance Standards (Steep Slopes).

The conservation design process and resource protection regulations would also be specifically cross-referenced as requirements for approval of Zoning Amendments (Section 6-1200), Rezoning to Planned Development Districts (Section 6-1500), and Site Plan Review (Section 6-700) and Subdivision (6-800).

A related change will need to be made to certain zone district regulations in all districts to facilitate the use of cluster developments with small lots. For example, currently several suburban zone districts contain minimum lot setback and other dimensional standards that will effectively preclude the creation of small cluster lots. These zone districts will need to be amended to provide a range of dimensional standards, with smaller requirements set forth for cluster lots that result as part of the conservation design process.

Subdivision: Under the existing LSDO, the subdivision of two or more parcels requires the submittal of a subdivision plat. For residential development, we recommended that the conservation design process be integrated into the preliminary plat process. The first step of the conservation design process would be the first step of this process, and trigger the preliminary plat process as currently outlined in Chapter 1243. The Conservation Design Plan would be a precursor of the more detailed preliminary plat. The entire process, including conservation design, would still be completed in 90 days, as is now the case.

Non-Residential Development: Non-residential development (other than single-family dwellings and agricultural structures in residential districts) is generally required to obtain site plan approval pursuant to 1244.01 of the LSDO and Section 6-701 of the Zoning Ordinance. We recommend that for non-residential development conservation design review be incorporated in the review of site plans, which currently occurs pursuant to provisions in Chapter 8 of the Facilities Standards Manuals (Administrative Procedures). Again, the 4-step conservation design process would be the initial steps of, and trigger, the site planning process. No additional time would be added to the site plan review, which typically takes place in 60 days from the time an application is submitted. If the applicant could demonstrate that a site did not contain any significant resources, the conservation design process could be waived. This waiver would most likely be applicable to smaller, infill sites in existing commercial and industrial areas.

D. Detailed Discussion Of The Conservation Design Process

Based on the recommendations of the *Revised General Plan* and our experience in other jurisdictions, we propose that the conservation design process section be added to Article VI (Development Process and Administration) of the Zoning Ordinance. Set forth below is a detailed description of the steps in the conservation design process, including applicability and review standards.

SUMMARY OF CONTENTS:

SEC. 6-1100A CONSERVATION DESIGN:

Sec. 6-1101A General

Sec. 6-1102A Purpose

Sec. 6-1103A Applicability/Exemptions

Sec. 6-1104A Conservation Design Process

(A) Resource Analysis/Mapping

(B) Site Visit

(C) Delineation of Conservation and Development Areas

(D) Submission of Conservation Design Plan

Sec. 6-1105A Other Procedures

(A) Interpretation/Adjustments of Maps and District Boundaries

(B) Modifications and Waivers

(D) Density Calculations

Sec. 6-1106A General Development Standards and Guidelines

Sec. 6-1107A Permitted Land Disturbing Activities Outside Designated Development Areas

Sec. 6-1108A Priorities For Protecting Secondary Conservation Areas/Resources

1) General

The initial section in the conservation design regulation establishes the purpose and intent of the regulations and to whom the requirements apply.

(a) Purpose

The section on purpose establishes that the general purpose of the conservation design regulations is to protect the Green Infrastructure of the County as identified in the *Revised General Plan*. It will also state that by relating the site's resources to resources on surrounding parcels, and by working to "design around" each property's most significant features, the County's ultimate goals of protecting the Green Infrastructure and providing an integrated

network of linked open spaces can be equitably achieved, while also providing full density credit to applicants.

(b) Applicability/Exemptions

This section establishes that the conservation design process applies to all development in the County (both residential and nonresidential), unless expressly exempted pursuant to this section. Exemptions would include development of a single-family residence on an existing legal lot; lots in approved subdivisions subject to proffered agreements; site plans subject to proffered agreements; any agricultural activity not subject to development approvals; and development within the Route 28 Highway Transportation Improvement Department. (See also discussion of vesting in Section V.)

2) Conservation Design Process

As is summarized in the introduction, the conservation design process has four basic steps: (1) analysis and mapping, (2) site visit, (3) delineation of conservation and development areas, and (4) submission of the conservation design plan with delineation of development areas, lots, roads, utilities, etc. This section provides greater detail about each step in the process.

(a) Step 1: Mapping Analysis

The conservation design process is based on a thorough evaluation of each site's constraints and opportunities, taking into account the relation to the surrounding context of natural and cultural resources on neighboring properties. For this reason, the process typically commences with a Context Map and proceeds to a detailed Existing Resources/Site Analysis Map.

(i) Location/Context Maps

We recommend that the Context Map needed for conservation design be based on the Location Map that is currently required for Preliminary Plans. This map should be expanded to require a showing of natural and cultural features or open space on adjacent properties. To make this information easy to provide, and to minimize the cost involved, such data can easily be traced from existing published sources such as aerial photographs (from the USDA NRCS, formerly SCS) for patterns of vegetation and development, USGS topographical sheets, FEMA floodplain maps, and USFWS wetlands maps. These maps and photos should then be reproduced by the applicant's engineer to the same scale (1" = 400 feet). The value of such an enhanced "Context Map" would be to help reviewers understand the relationship of resources on the subject property to natural and cultural features and open space and development patterns on adjacent and nearby lands. This kind of understanding is critical to planning for improved buffers and open space connections, and minimizing developmental impacts in the neighborhood.

(ii) *Existing Resources/Site Analysis Map*

This map, which should also be required as part of Step 1: Analysis and Mapping, provides a greater amount of essential information than is typically required on a sketch plan. It reflects a thorough approach to documenting the location of a large variety of site features, ranging from those deemed to be critical to those considered to be noteworthy. Examples of items that should be required in the Existing Resources/Site Analysis Map include locations of the primary conservation areas and secondary conservation areas. It would typically be prepared by a landscape architect for the developer, and would sometimes be based on recommendations from historic preservation specialists and conservation biologists. It would tell reviewers virtually everything they need to know about the property in terms of its noteworthy natural and cultural features. One needs to know where the woodlands and hedgerows are located, for example, and within those areas where the trees of greatest magnitude are growing.

With modern GPS (Global Positioning Systems) technology available to most engineering firms today, it is quite easy to pinpoint the location of individual objects in the field, such as trees, rock outcrops, etc. A number of communities require that developers' plans show the location of every tree greater than a certain specific diameter (which would vary according to species), and that these trees be identified by species on the drawing. In this way, they can identify those parts of woods that are more worthy of conservation and "designing around." This process, however, should not require this information for trees growing in areas that would not be disturbed because of their location within proposed conservation areas.

Another factor that is absolutely key at this point in the inventory process is soil data, specifically the location of the best soil available on the entire property if septic systems are to be utilized. In the absence of sewers, and recognizing the disadvantages of stream-discharge "package plants" (which fail to remove nitrogen and phosphorus pollutants, and which fail to recharge local aquifers), suitable soils are a basic necessity. Both individual and community systems need the deepest, best-drained soil that can be provided, and those areas must be "designed around" just as carefully -- and from the very beginning -- as well as any of the primary conservation areas, so they may be reserved for sewage treatment and effluent disposal and not be carelessly covered by foundations, driveways, or streets.

Drawn to a scale of one inch equals 100 or 200 feet, this map would reflect a thorough understanding of the site by those who have walked it extensively, so that even the location of large trees, unusual geological formations, wetlands, or the depth of the scenic viewshed, could be identified.

We believe that this is the most important document in the conservation design process, as it provides the factual foundation upon which all design decisions are based.

(Note: The detailed requirements for this map would not necessarily appear within the text of the zoning ordinance or LSDO itself, but could be placed in the Facilities Standards Manual.

(b) Step 2: Site Visit

Because it is impossible to completely understand a site only by examining a two-dimensional paper document inside a municipal building, it is essential that staff and the applicant walk the property with a comprehensive map that analyzes all relevant site conditions and identifies both the significant and noteworthy resources, to take the full measure of the proposed development site.

Such site visits help provide a much better understanding of the best locations for potential conservation areas and open space on the subject parcel, and their potential linkages to natural or cultural features on adjacent properties using conservation design techniques. It is impossible to understand any site and to make good decisions when the information base is incomplete. There is simply no substitute for first-hand observation.

The conservation design regulations should require the applicant to provide copies of the Existing Resources/Site Analysis Map for staff to use as they walk the property with the applicant and the applicant's engineer or site designer (who should be required to attend to point out the location of the various features shown on the site analysis map). This site walk should definitely become a standard operating procedure. It should ideally occur at the beginning of the process, with staff walking the site with the applicant well before the Preliminary Plat or Site Plan is prepared, to allow them the opportunity to analyze the site, understand its potential for both conservation and development, and to make recommendations as to the extent of primary conservation areas and locations of secondary conservation areas and open space set asides, before the applicant has spent additional money preparing any layouts.

(c) Step 3: Delineation of Primary and Secondary Conservation Areas, Open Space, and Development Areas

Based on the site maps and site visit, the applicant would prepare a map depicting primary and secondary resource conservation areas and areas that might be suitable for development. More specifically, the applicant and the applicant's consultants would first apply the standards and regulations contained in the environmental overlay districts (river/stream corridor, limestone, mountainside) and environmental regulations (steep slopes) to identify and define the primary conservation areas where development would be limited or prohibited (See Figure 11). Next, secondary conservation areas would be delineated based on discussions with staff and the site visit as part of Step 2 above. (See Figure 12.) Those secondary conservation resources (e.g., a national historic landmark or habitat for a listed threatened species) would be protected primarily by inclusion in the open space set asides required by the relevant zoning districts. In the AR-1 and AR-2 districts, protection of secondary conservation will have to be coordinated carefully with permitted rural economic uses in the open space. The open space would also be configured to connect with open space and conservation areas on adjacent properties where possible. The type of secondary resources protected and the configuration of open space would vary by parcel depending on site conditions and importance of resources. Finally, and based on this analysis, the Development Delineation Area would be established (See Figure 13).

Figure 11: Primary
Conservation Areas

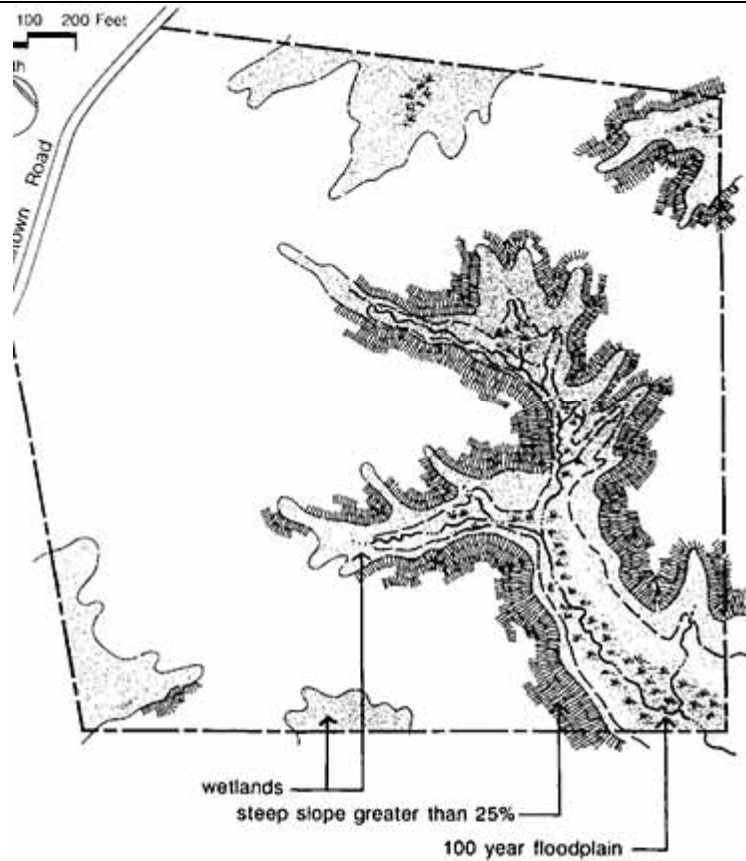
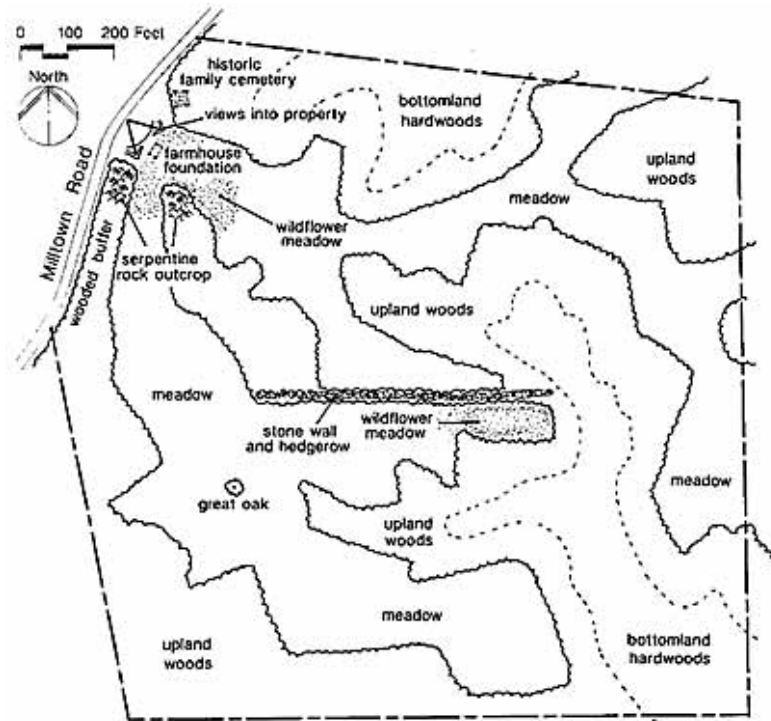
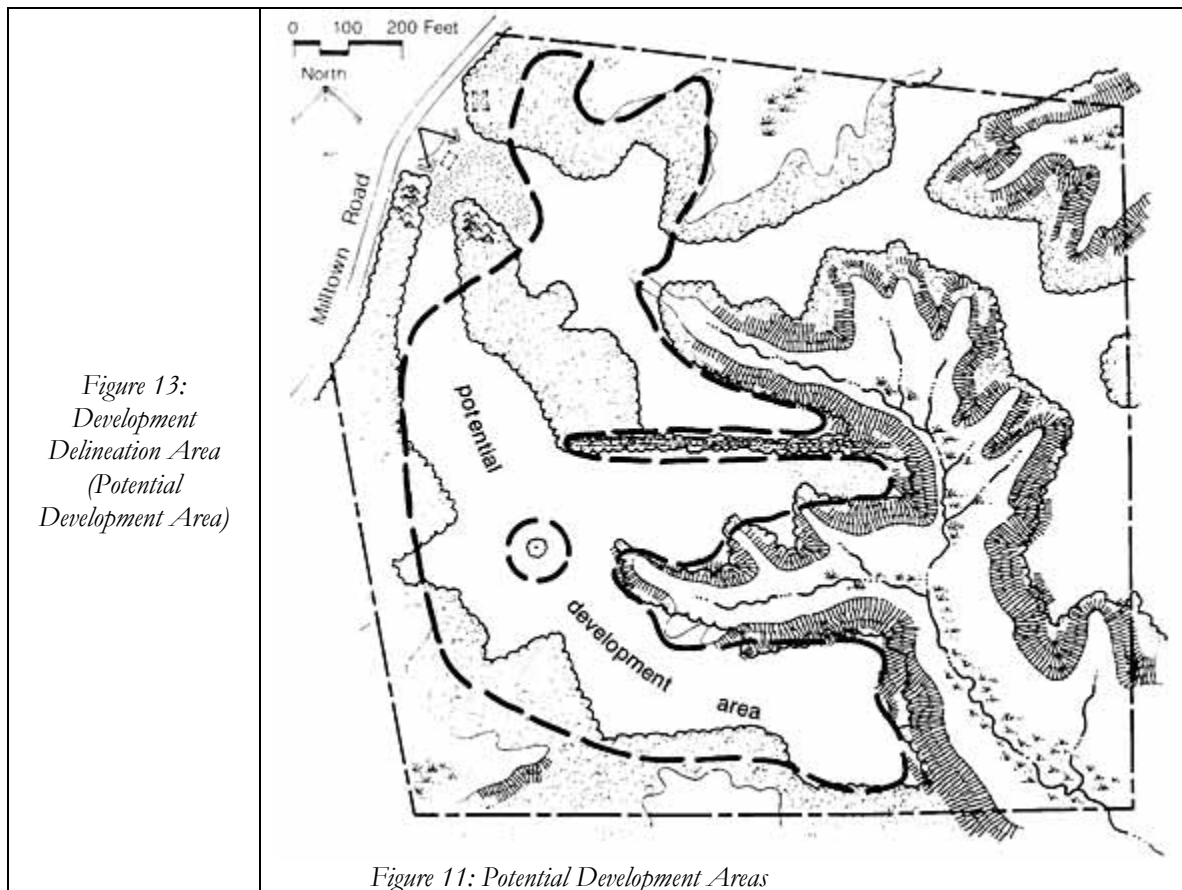


Figure 12: Secondary
Conservation Areas





(d) Step 4: Conservation Design Plan

Apart from the Existing Resources/Site Analysis Map, the Conservation Design Plan is perhaps the second most important document in the entire conservation design process. This is the step where the overall concept is outlined, showing the footprints of proposed development, including lot lines, utilities, roads, and septic fields as well as areas of proposed conservation and open space. We recommend that the Conservation Design Plan be prepared by qualified professionals such as a landscape architect working with a civil engineer. Ideally the proposed development “footprint” on the Conservation Design Plan should dovetail and not intrude upon the resources documented on the Existing Resources/Site Analysis Map.

The review process for the Conservation Design Plan should identify and document any shortcomings, which should then be communicated to the applicant so that these deficiencies can be corrected prior to submitting a more detailed preliminary plat or site plan.

It is essential that a conceptual step such as this occur before the applicant spends large sums on preparing the substantially engineered drawing that typically constitutes the detailed preliminary subdivision plat or site plan. Once a certain layout has been heavily engineered,

at very considerable cost, applicants are understandably reluctant to modify their drawings in any substantial way. After agreement is reached at this stage, the applicant moves to the detailed preliminary plat for a residential subdivision or a site plan for a non-residential development as required by current regulations with the full benefit of the site analysis, site visit, and concept review to prepare for the next stage where serious engineering money is spent.

3) Other Procedures

(a) Interpretation/Adjustments of Maps and District Boundaries

Because the environmental overlay district boundaries as mapped may, in some instances, be imprecise, and there may be a conflict between the exact location of primary and secondary resources and the mapped boundaries, the conservation design process will establish a procedure by which the County staff or Board of Zoning Appeals is authorized to make necessary interpretations. This will be very similar to the existing process now set forth in the Floodplain Overlay District, (Section 401504) of the Zoning Ordinance. Appeals from the Zoning Administrator's decision may be taken according to existing appeal provisions in Section 6-1700 of the Zoning Ordinance.

(b) Modifications and Waivers

This section will describe a process to grant administrative relief ("minor modifications") from environmental resource protection standards to applicants who are having difficulty complying with conflicting resource protection standards. For example, an applicant may find that compliance with River and Stream Corridor buffer requirements conflicts with karst protection regulations. The need for relief must arise from a specific parcel's shape, topography, or other unique physical features. The scope of a minor modification to River and Stream Corridor (RSCOD), Mountain Development Overlay District (MDOD), Limestone Overlay District (LOD), and steep slope protection standards will be limited to a specified maximum percentage. For example, the Zoning Administrator may be allowed to reduce the required karst feature buffer or the required maximum disturbance area in the MDOD sensitivity areas by no more than 10% for the specific purpose of enabling overall compliance with other resource protection regulations and only if the applicant can demonstrate there will be no significant adverse impact on any protected resource. Any requests for modifications beyond the stated limits will be processed as a zoning variance, governed by Section 6-1607 of the Zoning Ordinance.

This section also provides an administrative process to grant waivers from applicable primary conservation area standards in the zoning ordinance if the subject property is less than one (1) acre in area and meets certain specified criteria. Criteria will state that the waiver is necessary to provide a reasonable economic use of the property, and that the waiver shall not undermine the intent of the regulations nor result in significant adverse environmental or public health/safety impacts either on- or off-site. Additionally, a waiver will be available for small infill sites in commercial/industrial areas from the conservation design process if the applicant can demonstrate that there are no primary or secondary conservation resources on the site.

(c) *Density Calculations/Rural Economy Uses*

This section codifies the *Revised General Plan's* overarching policy to grant full density credit on properties subject to any resource protection regulations, such as the RSCOD or LOD standards. Accordingly, this provision will allow density to be transferred from the environmentally constrained areas on the subject property (such as land areas within the protected river and stream corridor) to unconstrained areas located on the same property. Flexibility regarding lot area and lot dimensions will be granted to enable an applicant to accommodate the full density on a site's unconstrained areas.

This section will also contain a statement that rural economy uses (See Section II.D.2 (vi)) will be allowed and encouraged in open space/secondary conservation areas (but not in primary conservation areas) in the AR-1 and AR-2 districts under the residential cluster option.

4) *General Development Standards and Guidelines*

(a) *Permitted Land Disturbing Activities Outside Designated Development Areas*

This section will state a general prohibition of any "land disturbing activity" outside the designated development area, with some specified exceptions. Exceptions often include limited land disturbing activities intended to mitigate development activities or restore previously disturbed areas, provide public access (such as trails) to a natural resource area, or utility installations when no other location is feasible. Additionally, rural economy uses will be allowed in open space in the AR-1 and AR-2 districts under the residential cluster option, except where they would conflict with primary conservation resource standards.

"Land disturbing activity" is typically defined very broadly to encompass grading, scraping, excavating, trenching, filling of land, dumping of fill on land (such as stockpiling construction fill material on a site), clearing of trees or vegetation, and any construction, reconstruction, or significant alteration of an existing structure. An issue is whether, or to what extent, agricultural activities should be included in the definition of "land disturbing activity." The treatment of agricultural activities varies greatly among jurisdictions nationally, with many choosing to totally exempt such activities for policy reasons while others choose to include at least some high-impact agricultural activities (e.g., prohibit agriculture not subject to a "best practices" management plan for nutrients and pesticides use). At a minimum, dumping of fill material on agricultural land should constitute a land disturbing activity that is not exempt.

(b) *Framework For Protecting Secondary Conservation Areas/Resources*

This section will establish a procedure for applicants to select which secondary conservation areas/resources are to be protected by setting them aside as open space. The recommended approach, selected from the options discussed below, is to set forth a menu of secondary resources based on the *Revised General Plan*. The applicant would have the flexibility and

discretion to choose at least three secondary resources, all or portions of which would be protected in conjunction with the set aside of open space per zone district regulations.

Commentary: There are four alternative approaches that the County might consider in establishing a process for selection and protection of secondary conservation areas. Based on the consulting team's experience in other communities, potential legal constraints in Virginia, drafting time constraints, and discussions with staff, we recommend that during Phase 1 of the zoning ordinance revisions that the County adopt Option #4, the flexible menu approach.

1. *Growing Greener Approach (See p. 63 of Randall Ahrendt's Growing Greener book):* List specific secondary resources by order of priority for protection in ordinance. Tailor lists for each zone/overlay district.

Advantages:

- *Certainty for applicants and staff*
- *Straightforward administration*
- *Clear protection priorities*

Disadvantages:

- *Inflexibility/inability to make trade-offs and apply professional judgment*
- *Lack of tailoring to site/resources*
- *Potential loss of lower priority resources*
- *Staff must work with consultant to establish priority lists for each district—could be very time-consuming and difficult*

2. *Site-by-Site Ranking—Staff Discretion Based On Studies:* Staff would rank resources on each site based on studies/maps produced by applicant's consultants, County mapping, site visit, etc. No guidelines in ordinance regarding relative priorities.

Advantages:

- *Reflects reality of variation in resource priorities by site*
- *Allows staff to apply expertise and make trade-offs to tailor protection solutions; has proven track record in other jurisdictions*
- *Flexibility*
- *Less time needed to draft ordinance provisions*

Disadvantages:

- *Lack of certainty for applicant*
- *Need for negotiation on site-by-site basis*
- *Potentially inconsistent application based on differing staff interpretations/ predilections*

- Significant legal questions in Virginia regarding delegation of such broad discretion to staff without specific guidelines for selecting secondary areas. Because of these legal questions, the second option is not recommended.

3. Specific Standards For Secondary Resources with Staff Flexibility to Modify Standards: Mirror the approach for primary resources by setting forth specific protection standards (e.g., protect all trees larger than 12" DBH, no fragmentation of prime wildlife habitat for certain listed species), but grant staff authority to modify or waive standards pursuant to clear criteria to make site plans work.

Advantages:

- Certainty for applicant and staff since standards are clear
- Easier to administer than #2 above

Disadvantages:

- Potentially lengthy drafting process given lack of specificity in Revised General Plan regarding secondary resources and priorities among them
- Potentially inflexible approach unless staff has significant modification/waiver authority to make standards work on a site-by-site basis. Inflexibility can lead to loss of some resources or lead to takings claims given cumulative impact of regulations. However, significant legal questions in Virginia about granting staff broad discretion to modify standards

4. Flexible Menu Approach: Developers/applicants given flexibility to protect resources listed in secondary conservation area list. Allow developers to choose 2-3 secondary resources upon which to focus secondary conservation area protection efforts through open space set asides. Open space set aside percentages specified in each zone district. If less than three secondary resource areas on a site, then developer focuses on protecting only one or two. Waivers available if no secondary resources present.

Advantages:

- Flexibility for developers—allow them to choose resources and tailor development plans accordingly
- Avoid legal issues regarding excessive staff discretion and modification authority
- Less time-consuming and thus more realistic in terms of Phase I drafting schedule

Disadvantages:

- *Menu approach does not guarantee that most important secondary conservation areas will always be protected*
- *Lack of written guidance for applicants regarding County's preservation preferences*

V. Vested Rights/Transitional Rules

A. Introduction

Many significant changes in the County's land use regulations are being suggested to implement the *Revised General Plan*. For example, a host of new environmental resource protection standards have been recommended to preserve and enhance river and stream corridors, mountain ecosystems, and steep slopes. While these changes are essential to making the *Revised General Plan's* vision a reality, they also raise one of the key issues of any plan implementation effort: whether, and to what extent, the new regulations and procedures can and should apply to pending development applications and existing uses and lots.

On the one hand, to be most effective, the new resource protection standards, zone district regulations, and conservation design requirements should apply broadly with as few exemptions or "grandfathering" as possible if the Plan is to become a reality. If all pending development applications are exempt and all existing residential lots can be developed without regard to the proposed changes, it will be years—if ever—before the *Revised General Plan* is implemented. On the other hand, legal constraints regarding vested rights established by the state legislature as well as equitable and political considerations must also be taken into account. If a development application has already received significant approvals from the County, a strong argument can be made that the review should proceed under the rules in place when those approvals were granted. Moreover, the County must be cognizant that application of the new regulations and procedures may potentially make existing uses non-conforming and subject them to some limitations, for example, on expansion.

Experience in other jurisdictions that have adopted comprehensive amendments to their land development codes shows the ultimate success of such efforts is often tied to how thoughtfully and sensitively they dealt with vested rights and the rules to govern the transition from outdated code provisions to new ones. This section briefly highlights some of the key issues for County officials and the public to consider in shaping these transitional rules that will be included in the revised land use regulations.

B. Discussion

Typically, jurisdictions establish transitional rules that apply differently to different parcels of land depending on whether it is already developed or if some sort of development application has been filed or development approvals granted by the local government. Thus, in assessing how the revised zoning and subdivision regulations might apply, the following categories of property might be considered, and rules established for each:

- Developed property
- Vacant land with approved and recorded subdivision

- Vacant land with approved site plan, subdivision plan, or similar approval
- Vacant land with pending development application but no County approvals
- Properties with other approvals (proffered rezoning, special exception, variance, etc.)
- Existing legal lots of record without any pending application or approvals

Generally, already developed properties rarely are required to comply with proposed regulations unless the new standards address serious public health, safety, and welfare concerns. These properties become legal, non-conforming uses governed by specific non-conforming use regulations in the zoning ordinance. This is not always the case, however.

But what of undeveloped property? Typically, those with development approvals are usually granted greater freedom from complying with new zoning and subdivision regulations. Those without any approvals are typically subject to revised land development regulations and procedures. A key concept in drawing this line is that of vested rights.

1) Vested Rights

In most states, including Virginia, the courts and state legislatures have established vested rights rules and guidelines. Under these rules and guidelines, certain zoning and subdivision applications have a right to be reviewed under the regulations in place at the time the application was filed or received some official approvals for the local government. If an applicant qualifies for a vested right, it can proceed through the review and development process without regard to the newly enacted regulations and procedures.

The Virginia legislature has adopted vested rights legislation that is quite favorable to applicants when compared to other jurisdictions across the United States. The law creates special protections, for example, for proffered rezonings and approved site plans and preliminary subdivision plats if the landowner relies on these approvals and incurs “extensive obligations or substantial expenses in the diligent pursuit” of the project. This legislation limits the County’s options in dealing with such projects.

Some jurisdictions in other states that also vest developments with preliminary approvals simply exempt them from new regulations. However, others have created vested rights determination procedures whereby a landowner must demonstrate factually that he has satisfied the requirements relating to incurring of obligations and the diligent pursuit of the project. Loudoun County might want to consider this option, since it is authorized by Virginia law. This approach typically results in more properties being subject to the new regulations. Another interesting option was employed by the County in 1993 when it enacted the current zoning ordinance. Properties in some districts were allowed to “opt in” to the new ordinance voluntarily if that was advantageous. Such may be the case in some

instances with the new regulations since they offer certain advantages in terms of procedural reviews and allowable uses.

While Virginia vested rights law is somewhat constraining, it still leaves the County substantial flexibility in dealing with properties that have received no approvals.

2) Pending Applications Without Approvals

In most jurisdictions across the United States, including Virginia, applicants who have submitted a development application but have received no final or preliminary approvals from the local government generally have no legal claim of vested rights except under special circumstances. These pending applications can be required to comply with the new regulations, which may result in the application or plans having to be resubmitted or redesigned.

This approach has much to recommend it from the perspective of plan implementation. If only a limited number of pending applications are grandfathered, the goals of the *Revised General Plan* will be realized more quickly. If many or all applications are exempted from compliance, then it may be years, if ever, before the Plan's vision becomes a reality. Additionally, a liberal grandfathering policy may also invite a rush to file new applications to avoid having to comply with regulations then under consideration.

Despite these considerations, some jurisdictions take a liberal vesting approach – exempting pending applications – to lessen potential opposition to new development regulations, avoid litigation, and help secure approval of the proposed code amendments. Others designate a deadline for applications to be considered for grandfathering (for example, when the new regulations are officially introduced for consideration by the governing body) to avoid a rush of applications designed to avoid application of those new regulations.

3) Legal, Vacant Lots Without Pending Application

Generally, while an owner of a legal, vacant lot who has not received development approval and has no applications pending has a right to make a reasonable economic use of that property, the land can be subjected to the newly adopted zoning and subdivision regulations to the extent that they do not preclude such a reasonable economic use. Few jurisdictions anywhere exempt such lots from compliance when they adopt new development codes intended to implement a new comprehensive plan. To do so would virtually emasculate the new regulations and procedures, because thousands of undeveloped lots might be exempted.

Thus, if new zoning provisions changed the allowable uses in the applicable zone district, perhaps eliminating an industrial use, the parcel would have to comply. Similarly, if the new regulations required an additional setback from a river or stream to protect water quality, any new structure on the property would have to conform, unless compliance would render the land completely unusable.

Again, however, because of political considerations, some jurisdictions apply new regulations selectively. Thus, vacant properties might be required to comply with new limitations on permitted uses while regulations restricting ridgeline development might be applied more flexibly or not at all.

4) Conclusion

Except to the extent required by state vested rights law, there are no hard and fast “right” answers when it comes to establishing transitional rules for application of new development codes. Where the line is drawn is often a judgment call based on an assessment of how many properties will be affected, how serious of an impact the regulations will have, and to what extent grandfathering will undermine the effectiveness of the new standards. Another important consideration relates to administration. If the County has different transitional rules for different parts of the new regulations as they apply to different categories of property, experience in other communities demonstrates that administration could become very difficult, confusing, and time-consuming.

All of these are important considerations as County officials and the public review the proposed changes to the zoning and subdivision ordinances.